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Right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report prepared by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Puras, in accordance with Human Rights Council resolutions 6/29 and 15/22.

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Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Summary

The prevention of child mortality should remain a global priority. But beyond sheer survival, children have a right to thrive, develop in a holistic way to their full potential and enjoy good physical and mental health in a sustainable world. The present report argues that early childhood, a crucial time for effective investments in individual and societal health, must receive significantly more attention and a more adequate response from all relevant actors, including in the post-2015 agenda.

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I. Introduction

1. Some 6.3 million children under the 5 years of age died in 2013,[1] mostly from preventable causes and treatable diseases. The rates of child mortality and morbidity have declined significantly in recent years as a result of global and national commitments to child survival. However, mortality rates remain unacceptably high, particularly among young children living in poverty and from marginalized groups in low-income countries.

2. At least 200 million children under the age of 5 fail to reach their full potential.[2] According to the Committee on the Rights of the Child, young children's earliest years are the foundation for their health and development across the life course.[3] Their nutritional and health status, as well as the quality of their relationships and social interactions, have life-long implications for their development and health.[4] Early childhood is the most effective and efficient time to ensure that all children develop their full potential and the returns on investment in early child development are substantial.[5] Regrettably, children's right to development has thus far not received the same attention as their right to survival.

3. Health, survival and development are not sequential but are intrinsically linked and simultaneous processes. Early childhood programmes should continue to pursue objectives that include survival and health in the short term, but they should more consistently go beyond to embrace healthy development and health throughout life.

4. The present report focuses on the right to the highest attainable standard of health ("right to health") and its relationship to the right of the young child to survival and development. These rights are interconnected and indivisible. Their relationship has two key dimensions:

(a) The right to survival and healthy development is central to the enjoyment of the right to physical and mental health throughout life;

(b) The right to health in early childhood includes freedoms and entitlements that are not only essential to immediate survival and health, but also to the healthy development of the child and the adult s/he will become.

5. Reducing the mortality and morbidity rate among children under 5 years of age has been a focus of the global health community for several decades. More recently, the issue has been given increased attention by the human rights community. Section II of the present report highlights the progress made in reducing under-5 mortality and morbidity and in understanding the human rights dimensions of the issue. While the global health community has increasingly focused on the healthy development of the child, the subject has not yet been given adequate attention by

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[1] United Nations Children's Fund (UNICEF) and others, *Levels and Trends in Child Mortality: Report 2014* (2014), p. 1.

[2] S. Grantham McGregor and others, "Development potential in the first 5 years for children in developing countries", *Lancet*, vol. 369, No. 9555 (6 January 2007), pp. 60-70.

[3] General comment No. 7 (2005), para. 6 (e).

[4] S. Maggi and others, "International perspectives on early child development", World Health Organization (WHO), December 2005. Available from www.who.int/social_determinants/resources/ecd.pdf.

[5] A. Lake, "Early childhood development — global action is overdue", *Lancet*, vol. 378, No. 9799 (8 October 2011), pp. 1277-1278.

the human rights community. Section III focuses on the close link between the right to health and the healthy development of children under 5 years of age by exploring the meaning and determinants of healthy development, including new scientific understanding of development during the early years. Section IV focuses on the application of the right to health framework to the theme of the report.

6. The right to health provides a valuable normative and legally binding framework to support the health-related dimensions of early child development. It places a legal obligation on States to guarantee the right to healthy development of children; eliminate discrimination and inequalities that obstruct equitable healthy development; ensure participation of stakeholders by including parents and young children in relevant efforts; devote maximum available resources to the healthy development of children; develop suitable laws and policies, including a comprehensive national plan; and ensure accountability.

7. Definitions of early childhood vary by country and region. The Committee on the Rights of the Child establishes the limit of early childhood at 8 years of age. This is a common categorization for early childhood used by, among others, the World Health Organization (WHO). In the present report, the Special Rapporteur focuses on children under 5 years of age. This age group is commonly further divided into the neonatal period (0-28 days), infancy (the first year of life) and the preschool years (1-5 years).

II. Progress in relation to child survival and the right to health

A. Scale and causes of under-5 mortality and morbidity

8. Some 17,000 children under 5 years of age continue to die every day, mainly from preventable or treatable causes. In addition, 44 per cent of deaths of children under 5 occur in babies aged 0-28 days. The neonatal deaths result mainly from preterm birth complications (35 per cent), birth asphyxia and trauma (24 per cent) and sepsis (15 per cent).[6] From 29 days until 5 years of age, the majority of deaths are attributable to infectious diseases such as pneumonia (23 per cent), diarrhoeal diseases (16 per cent), malaria (13 per cent) and HIV/AIDS (3 per cent).[7]

9. Low birth weight, lack of breastfeeding, undernutrition, overcrowded living conditions, indoor air pollution, unsafe drinking water and food and poor hygiene practices are the main immediate risk factors for pneumonia and diarrhoea. However, while such diseases are proximate causes of death and are duly reflected in statistics, poverty and inequalities are the root causes, or underlying social determinants. Poverty increases young children's exposure to risks such as poor nutrition, violence, inadequate sanitation, lower levels of maternal education, inadequate stimulation in the home, increased maternal stress and depression and, at the same time, limits access to health and other services.[8] In 2013 the under-5 mortality rate in low-income countries was more than 12 times the average rate in

[6] UNICEF and others, pp. 14-15.

[7] WHO, Global Health Observatory Data Repository. Available from http://apps.who.int/gho/data/node.main.CODWORLD?lang=en.

[8] S. Walker and T. Wachs and others, "Child development: risk factors for adverse outcomes in developing countries", *Lancet*, vol. 369, No. 9556 (13 January 2007), pp. 145-157.

high-income countries.[9] There are also significant disparities in under-5 mortality and morbidity within countries, driven by poverty, gender and other inequalities. Low levels of literacy and poor access to education among women correlate strongly with high rates of under-5 mortality.

B. Progress in reducing under-5 mortality and morbidity

10. The reduction of under-5 mortality has been at the heart of the global development and public health agendas. The Millennium Development Goals called for a reduction of under-5 mortality by two thirds between 1990 and 2015 (goal 4). Global commitments such as the Millennium Development Goads have provided impetus for global strategies as well as national plans to accelerate progress, most notably the Secretary-General's 2010 Global Strategy for Women's and Children's Health[10] and *Every Newborn: An Action Plan to End Preventable Deaths*, issued by WHO in 2014. These documents have helped galvanize international and national action as well provided technical guidance for reducing under-5 mortality and morbidity.

11. Significant progress has been made in reducing deaths among children under five, from 12.7 million deaths in 1990 to 6.3 million deaths in 2013. However, progress has been insufficient to meet goal 4, particularly in Oceania, sub-Saharan Africa, the Caucasus and Central Asia and Southern Asia.[11]

12. In September 2015, the General Assembly is to adopt a set of sustainable development goals that will replace the Millennium Development Goals as the focus of the international development agenda. At the same time, a new global strategy for women's, children's and adolescents' health is to be launched. The ending of preventable deaths of newborns and children under five is a target of the "zero draft" of the sustainable development goals.[12]

13. Nevertheless, the Special Rapporteur in concerned at what he sees as the "the unfinished business" of goal 4, especially the slow progress in reducing preventable newborn deaths and the alarming prevailing rates of stillbirths.

C. Human rights-based approach to addressing under-5 mortality and morbidity

14. Reducing under-5 mortality and morbidity is a critical right to health issue. The Convention on the Rights of the Child provides that taking appropriate measures to diminish infant and child mortality is a central aspect of States parties' obligations in relation to the right of the child to health.[13] The right to health is therefore closely linked to the right to survive of young children.

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[9] UNICEF and others, p. 1.

[10] The Global Strategy is to be updated in September 2015.

[11] UNICEF and others, p. 1.

[12] Available from https://sustainabledevelopment.un.org/content/documents/7261Post-2015%20Summit%20-%202%20June%202015.pdf.

[13] Article 24.1 and 24.2 (a).

15. In recent years, the human rights dimensions of under-5 mortality and morbidity have been clarified and the global health and human rights communities have begun to examine the problem through a human rights lens.

16. In 2013, the Committee on the Rights of the Child adopted general comment No. 15, in which the Committee reiterated the importance of the obligation of States to reduce child mortality and the need to pay particular attention to neonatal mortality, which constitutes an increasing proportion of under-5 mortality.

17. In its resolution 22/32, the Human Rights Council expressed deep concern about the scale of under-5 mortality and invited WHO to prepare a study on mortality of children under 5 years of age as a human rights concern. The study (A/HRC/24/60) identified the human rights dimensions of under-5 mortality and paved the way for the adoption by the Council of resolution 27/14 on preventable mortality and morbidity of children under 5 years of age as a human rights concern.

18. In that resolution, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR), in close collaboration with WHO and in consultation with other partners, to prepare a report on the practical application of the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age.

19. The technical guidance (A/HRC/27/31) is a major contribution. It sets out the human rights dimensions of under-5 morbidity and mortality and explains how to apply human rights-based approaches to address the problem. It provides detailed operational guidance for legislative measures, governance and coordination, planning, budgeting, implementation, monitoring and evaluation, remedies and redress and international cooperation. The Special Rapporteur endorses the systematic approach of the technical guidance as a significant step towards the reduction and elimination of preventable deaths of children under 5 years of age.

20. The global health community has also given attention to the human rights dimensions of under-5 mortality and morbidity and has committed to ground its efforts in human rights. The Secretary-General's Global Strategy for Women's and Children's Health is grounded in global human rights commitments and emphasizes that legislation and policies should be in line with human rights. The new global strategy, which is to replace the existing strategy in the coming months, will call for the integration of human rights in all efforts to improve women's, children's and adolescents' health.

21. Human rights are also one of six guiding principles of *Every Newborn: An Action Plan to End Preventable Deaths*. The Action Plan highlights that all planning and programming for reproductive, maternal and newborn health should be guided by principles and standards derived from international human rights treaties. A range of operational tools have also been developed to help States to systematically apply human rights standards in law, policy and service delivery for young children and their caregivers.

22. The question is often asked in the public health community whether human rights will make a positive contribution in practice. Recent research undertaken by WHO has produced evidence of the beneficial impact that human rights can have on women's and children's health in early childhood in the context of initiatives by the

executive branch of Government.[14] This research supports the case for human rights to be fully integrated into efforts to improve child health, survival and development.

23. Nevertheless, there are still very few concrete examples of the actual practical application of a human rights-based approach to child survival and development. In order to make a difference, States should be intentional and explicit about the application of a human rights-based approach in their laws, policies, programmes, budgets and other measures.

III. Early childhood development and the right to the highest attainable standard of health

A. Health and promotion of early childhood development

24. The Constitution of WHO defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". Development in childhood consists of interconnected domains: physical, cognitive-linguistic and social-emotional. WHO states that the three critical elements of healthy child development are stable, responsive and nurturing caregiving; safe, supportive environments; and appropriate nutrition.[15]

25. These elements can be safeguarded through best practices such as planned, safe pregnancy and childbirth; exclusive breastfeeding in the first six months followed by appropriate complementary feeding and responsive parenting; preventive interventions such as vaccines for the treatment of diseases; protection from violence, neglect and abuse; and the reduction of environmental risks.

26. Young children's rights to health and development are intrinsically linked in two main ways. First, poor physical or mental health in early childhood is among several interconnected factors that can limit the right to optimal development. About 200 million children fail to reach their developmental potential because of poverty, inequality and discrimination; poor health; poor nutrition, including malnutrition and iodine and iron deficiency; intrauterine growth restriction; a lack of stable, nurturing and responsive environments with learning opportunities; and a lack of safe, supportive physical environments.[16] HIV/AIDS, malaria, violence and maternal depression also cause severe setbacks.

27. Second, the three main domains of early childhood development — physical, social-emotional and cognitive-linguistic — affect health throughout life.[17] All three domains must be given equal attention to promote development in a holistic manner, or healthy development. Research from neuroscience shows how the quality of emotional relationships in early childhood impacts on physical and mental health as well as on morbidity in adulthood. It also shows the detrimental impact of toxic stress and early childhood adversities on the quality of brain architecture and the health status during the life span as developmental stages build on one another.

[14] F. Bustreo and P. Hunt and others, *Women's and Children's Health: Evidence of Impact of Human Rights* (Geneva, WHO, 2013).

[15] See www.who.int/maternal_child_adolescent/topics/child/development/10facts/en/.

[16] R. Jolly, "Early child development: the global challenge", *Lancet*, vol. 369, No. 9555 (6 January 2007), pp. 8-9.

[17] S. Maggi and others.

Individual and societal health can be improved through cost-effective and culturally relevant interventions focusing on enhancing children's emotional and social development, competent parenting and the quality of relationships between children and parents in early childhood.

B. Progress in early childhood development and health

28. Despite the very large number of children that fail to reach their development potential, the issue has not been a focus of global attention. It is not explicitly captured by the Millennium Development Goals. In high-income countries, programmes aimed at the promotion of healthy development in early childhood are widespread. However, in low- and middle-income countries, even while awareness of child development is increasing along with the number of relevant policies and programmes,[18] progress is far too slow. While there is a growing consensus that child survival and child development are deeply interrelated, programme financing at the international level has not yet reflected this understanding.

29. The post-2015 development agenda signals a shift from the focus on the survival and health of children under 5 years of age to their survival, health, well-being and development. Sustainable development will require healthy, productive, creative, emotionally competent, confident and capable individuals, meaning that early childhood interventions must focus on development as well as survival.[19] The draft sustainable development goals include new targets, many of which are relevant to early child development. Equity is also an objective and cross-cutting consideration of the sustainable development goals, with important implications for the right to health and early child development.

30. Reinforcing the sustainable development goals approach, the "zero draft" of the global strategy for women's, children's and adolescents' health[20] is structured around three goals: survive (ending preventable deaths); thrive (realizing health and rights); transform (comprehensive change for women's, children's and adolescents' health and sustainable development).

31. Children's right to health includes both their survival and their healthy development. Although ensuring the survival of children is critical, their healthy development is essential to their right to health as well as to other human rights and dignity, both in the short term and throughout their lives. Second, the joining up of these agendas makes practical sense because mortality and morbidity, and obstructed development, among children under 5 years of age share many causes,

[18] P. Engle and others, "Strategies to avoid the loss of developmental potential in more than 200 million children in the developing world", *Lancet*, vol. 369, No. 9557 (20 January 2007), pp. 229-242.

[19] A. Yousafzai and M. Arabi, "Bridging survival and development in the post-2015 agenda: partnerships in nutrition and early child development", *Early Childhood Matters*, June 2015, pp. 19-27.

[20] Available from http://everywomaneverychild.org/images/Global-Strategy_Zero-Draft_FINAL_5-May-2015_copy.pdf.

can be addressed by the same or similar interventions and can be mainstreamed into existing health and other relevant policies and programmes.[21]

32. While welcoming this important paradigm shift towards embracing the right to healthy development, the Special Rapporteur is concerned that in the draft sustainable development goals, and in other documents, there is a tendency to address human rights, including the human rights of children, selectively. For example, while welcoming the proposed goal 5.2 to "eliminate violence against all women and girls in the public and private spheres",[22] he wishes to highlight that no form of violence against children, including boys, should be accepted.

33. Moreover, States should mobilize more political will and resources and facilitate the meaningful involvement of all relevant stakeholders, in particular civil society actors, in the realization of goals and targets of the sustainable development goals related to early childhood.

C. Right to health obligations to promote early childhood development

34. General comment No. 7 (2005) on implementing child rights in early childhood and general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health of the Committee on the Rights of the Child embrace a holistic approach to health, survival and development. Building on relevant treaty provisions and on evidence from the public health and scientific communities, the following sections of the report set out a right to health approach to early childhood development.

Young children as rights holders

35. Infants and young children are holders of all rights enshrined in the Convention on the Rights of the Child as well as other international human rights treaties. The Convention affords special protection for early childhood in recognition of the important and particular challenges facing this age group and the progressive exercise of their rights, in accordance with their evolving capacities.

36. In this regard, the rights of the newborn, as a rights holder, need to be addressed. Newborn children are too often not considered as deserving the status of autonomous individuals and rights holders and therefore not deserving respect and dignity. Young children, from the first days of their lives, are not only exposed to the environment in which they live but are actively shaping their surroundings by means of their presence and different forms of communication. In paragraph 10 of the recommendations adopted on its day of general discussion on implementing child rights in early childhood, held in September 2004,[23] the Committee on the Rights of the Child underlined that the concept of the child as rights holder is "anchored in the child's daily life from the earliest stage" (para. 10).

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[21] P. Engle and others, "Strategies for reducing inequalities and improving developmental outcomes for young children in low-income and middle-income countries", *Lancet*, vol. 378, No. 9799 (23 September 2011), pp. 1339-1353.

[22] See https://sustainabledevelopment.un.org/content/documents/7261Post-2015%20Summit%20-%202%20June%202015.pdf.

[23] Available from www.ohchr.org/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations2004.pdf.

The source of right to health obligations

37. Besides defining health, the WHO Constitution also recognized that the highest attainable standard of health is a fundamental human right. The Universal Declaration of Human Rights recognized that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family and that motherhood and childhood are entitled to special care and protection (art. 25). These original international sources of the right to health emphasize that health is a broad concept, covering not only physical but also mental health and not only disease but also well-being, all of which encompass the healthy development of children.

38. The Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights and other international human rights treaties recognize the right to health and give rise to binding legal obligations on States parties to respect, protect and fulfil that right.

39. The treaties set out entitlements and freedoms, assign duties, provide a legally binding framework and demand accountability. They demand particular efforts, mostly by States, to address inequality and discrimination, focusing on the most marginalized young children.

The right to survival and development and its relationship to health and other human rights

40. The International Covenant on Economic, Social and Cultural Rights recognizes the links between health, survival and development: article 12 on the right to health obligates States parties to take steps necessary for, among other things, the "provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child". In other words, in the Covenant, development is part of the right to health. Article 24 of the Convention on the Rights of the Child recognizes the right to health of the child and to facilities for the treatment of illness and rehabilitation of health. This approach underlines that the spectrum of essential health-related services should not be limited to medications and vaccines, but should also include effective public health and psychosocial interventions.

41. In contrast, the Convention separates the right to health (art. 24) and the right to survival and development (art. 6). However, there is no doubt that these articles are fundamentally linked. For example, article 24 includes a range of obligations that are inseparable from ensuring survival and development, such as diminishing infant and child mortality, providing medical assistance, combating disease and malnutrition, ensuring appropriate pre- and postnatal health care for mothers, providing access to information on child health, developing preventive health care and guidance for parents and abolishing harmful traditional practices. The right to survival and development can only be implemented in a holistic manner through the enforcement of other rights contained in the Convention, such as the right to health.

42. Other rights relevant to survival and development that are also interconnected and interrelated with the rights to health and life include the rights of young children to be registered at birth; to education; play; a standard of living adequate for the child's physical, mental, spiritual, moral and social development; adequate housing; adequate nutrition; social security; water and sanitation; and the right to be free from all forms of violence. The present report focuses on the right to health, including aspects of children's development that fall within the right to health.

The best interests and views of the children

43. Article 3 of the Convention stipulates that in all actions concerning children, the best interests of the child shall be a primary consideration. This provision has wide-ranging implications for policy, including the allocation of resources, as well as decisions concerning individual children.

44. According to article 12, the child has a right to express his or her views freely in all matters affecting him or her and to have them taken into account. Research shows that a child is able to form views from the youngest age, even when he or she may be unable to express them verbally. Very soon after birth newborn babies can recognize their parents, engage actively in various forms of non-verbal communication and develop strong mutual attachments with their parents or primary caregivers.[24] Child-appropriate communication must be ensured to respect the child's right to information and the right to be heard at all times.

45. States and all relevant stakeholders should adopt an understanding that young children are active participants in interactions with members of their family and community as well as users of health and other services. In this regard, they are entitled to the same respect and dignity as all other members of the family, community and society.

IV. Early childhood development in the context of the right to health framework

46. In this section, attention is drawn to specific norms of, and obligations deriving from, the right to health relevant to early childhood development. The vast majority of these standards are also relevant to measures addressing child survival. This approach underscores the benefits of addressing the right to survival and development in an integrated manner.

A. Health care and other health-related services essential for early childhood development

Health systems

47. Health systems, including health-care services and preventive services, should offer, in cooperation with social, child protection, educational and other relevant services, a continuum of care for children and families. Health systems are central to the care of pregnant women, childbirth, postnatal care of the mother and child and the care of young children. Health systems are important not only in relation to specific biomedical interventions, but because they often constitute the only infrastructure that reaches young children, particularly those under 3 years of age, and can therefore initiate and foster health promotion and social service support to promote early child development and prevent risks.[25] For example, health visits or growth monitoring sessions can provide an opportunity to incorporate other child

[24] General comment No. 7 (2005), para. 16.

[25] P. Engle and others, "Strategies to avoid the loss of developmental potential", pp. 229-242.

development recommendations.[26] The health system is therefore often in a good position to take a lead in providing integrated care for young children.

48. A strong health system that is based on such human rights principles as equality and non-discrimination, accountability and participation and that affords access to services for children and caregivers is at the heart of the right to health (see A/HRC/7/11 and Corr.1). The right to health gives rise to obligations on States to ensure the provision of necessary medical assistance and health care to all children, with emphasis on the development of primary health care.[27] This includes prevention, promotion, treatment, rehabilitation and palliative care services.[28]

49. Child-friendly health services, goods and facilities must be available in adequate numbers; geographically and financially accessible as well as accessible on the basis of non-discrimination; culturally acceptable; and of high quality.[29] The right to health principles of availability, accessibility, acceptability and quality should therefore be applied in the context of planning and implementation of the main components of the health system: service delivery, health workforce, information, medical products, vaccines and technologies, financing, leadership and governance (A/HRC/21/22 and Corr. 1 and 2, para. 38).

50. The importance of primary health care, as expressed in the Declaration of Alma-Ata, adopted at the International Conference on Primary Health Care in 1978, and in article 24 of the Convention on the Rights of the Child must be underlined with regard to health promotion and health-care services for young children.

51. International human rights law places particular and explicit emphasis on the obligation of States to guarantee a number of relevant health and health-related services. For example, it places an obligation on States to provide appropriate pre- and postnatal health care for mothers[30] as well as appropriate services at birth[31] and to newborns. The Convention on the Rights of the Child has clarified the interventions that should be made available across this continuum[32] which are, for the most part, important for optimal child development as well as survival. Children affected by congenital anomalies or malnutrition,[33] chronic illnesses or severe and life-limiting diseases should be referred to specialized paediatric palliative care services, which can be provided in tertiary care facilities, in community health centres and in children's homes.[34]

52. Palliative care for young children is an obligatory part of health-care services, beginning when the illness is diagnosed and continuing regardless of whether or not a child receives curative treatment.[35] Young children in need of palliative care have

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[26] Ibid.

[27] Convention on the Rights of the Child, art. 24.2 (b).

[28] Committee on the Rights of the Child, general comment No. 15 (2013), para. 2.

[29] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 12.

[30] Convention on the Rights of the Child, art. 24.2 (d).

[31] Convention on the Elimination of All Forms of Discrimination against Women, art. 12.2.

[32] Committee on the Rights of the Child, general comment No. 15 (2013), paras. 53-54.

[33] Worldwide Palliative Care Alliance (WPCA) and WHO, *Global Atlas of Palliative Care at the End of Life* (London, WPCA, 2014), pp. 20 and 42. Available from www.who.int/nmh/Global_Atlas_of_Palliative_Care.pdf.

[34] The WHO definition of palliative care for children is available from www.who.int/cancer/palliative/definition/en/.

[35] Ibid.

the right to receive the necessary physical, social, psychosocial and spiritual care to ensure their development and promote their best possible quality of life.[36] Symptom management and pain relief are central to children's palliative care. Health systems must have adequately trained professionals to assess and treat pain in children of different ages and developmental stages and ensure the availability of paediatric diagnostic procedures and palliative care medicines in paediatric formulations. Palliative care for children must also involve ongoing support to the child's family throughout the course of treatment and, should the disease be the cause of death, into bereavement.[37]

Moving beyond a biomedical model of child health care

53. The different elements that form article 24 of the Convention on the Rights of the Child, in particular paragraph 24 (d), (e) and (f), including pre- and postnatal care for mothers; access to education and information on child health and nutrition, advantages of breastfeeding, hygiene and sanitation and prevention of accidents; and the development of preventive health care demonstrate that during the process of adopting the Convention there was a broader understanding of how to promote and protect the health of children.

54. Since the adoption of the Convention in 1989, there has been increasing evidence of "new morbidities" in childhood related to the understanding that physical and mental health in early childhood are affected by the environment, including relationships within the family, the community and the broader society. This understanding has led to positioning developmental and behavioural issues becoming central components of modern paediatrics.

55. Modern health systems and modern health policies should not be limited to a biomedical model of addressing separate diseases and managing them with advanced biomedical interventions. Addressing social and other underlying determinants of health by applying modern principles of health promotion, primary care, mental health and integrated health and social services is legally required by the right to health, including in early childhood.

56. Experts recommend major changes in routine baby medical checks to detect and address social and emotional difficulties, which could be early signs of toxic stress, as a means of reducing many of society's most complex and costly medical issues, from heart disease to alcohol and drug abuse.[38] In addition, some of the evidence-based health interventions that are included in the "zero draft" of the new global strategy for women's, children's and adolescents' health, such as nutrition counselling and "kangaroo" mother care for small babies, can be very useful in assisting main actors adopting a modern approach to health interventions.

57. Currently, primary health care and paediatrics need to be equipped not only with modern lifesaving medicines and vaccines; it is equally important to employ modern interventions that go beyond the biomedical model and to use effective

[36] African Palliative Care Association (APCA) and WHO, *A Handbook of Palliative Care in Africa* (Kampala, APCA, 2010), p. 48. Available from africanpalliativecare.org.

[37] Ibid., p. 10 and note 34.

[38] See, for example, C. Gerwin, "Listening to a baby's brain: changing the pediatric checkup to reduce toxic stress", Harvard University Center on the Developing Child. Available from http://developingchild.harvard.edu/resources/stories_from_the_field/tackling_toxic_stress/listening_to_a_baby_s_brain/.

psychoeducational and psychosocial methods based on new research in neuroscience, psychology, developmental paediatrics and child psychiatry. These interventions are not a luxury and should not be seen as such. They need to be supported and funded as effective and essential interventions, and obligatory component of health systems, on a par with the biomedical ones. Therefore, interventions that enhance emotional health and social development from the very start of life should be given priority and special value as investments in human development and global health.

58. Health workers and other professionals such as social workers have a very important role to play in supporting positive and responsive parenting. States should ensure that there are an adequate number of general practitioners, paediatricians, nurses and other relevant health-care professionals trained to work with children. The Special Rapporteur is concerned that the training and practice of medical doctors, nurses and other health professionals continues to focus predominantly on the biomedical determinants of health. Health-care services and all relevant professionals should be better equipped with relevant knowledge and practical skills to respond proactively to new knowledge about the negative impact of social determinants and early childhood adversities on the physical and mental health of children. For example, nurses and social workers, who visit families with young children should be trained to address issues related to the emotional and cognitive development of children and should be able to provide parents with the knowledge and basic skills necessary for nurturing and responsive parenting and non-violent ways of bringing up children.

59. Moreover, health and other professionals working with children should be trained on human rights and on early child development and the impact of the quality of relationships on physical and mental health during childhood and throughout life. Paediatricians, all other medical doctors and other relevant health professionals should play a more proactive role in educating families, childcare providers, teachers, policymakers, civic leaders and the general public about the health-related aspects of early child development.

60. The role of the health sector is given particular attention in the present report. However, as recognized in, among other texts, the Declaration of Alma-Ata, other sectors are also very important for early child health and holistic development. The right to health of young children should be promoted and protected through sustainable and transparent implementation of the principle "health in all policies".

B. Underlying determinants of the right to health

61. The right to health includes more than health care; it is also the right to the underlying determinants of health, such as nutrition; protection against violence; healthy and safe environments, including in the family environment and local community; health-related information and education; safe drinking water; adequate sanitation; and adequate housing.[39] These and other social determinants of health have an impact on the development of the child. Indeed, the environment is a fundamental determinant of the health and well-being of the child and of the adult.

[39] International Covenant on Economic, Social and Cultural Rights, art. 12.2; Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 11.

Nutrition

62. Nutrition, an underlying determinant of the right to health, is essential to children's health, survival and development. Adequate nutrition begins in utero, since the nutritional status of woman shortly before and during pregnancy can affect the health and healthy development of the child after birth.

63. After birth, adequate nutrition can be supported by the initiation of breastfeeding, exclusive breastfeeding for six months and continued breastfeeding through to the second year of life,[40] nutritional supplementation and ensuring the availability of and access to healthy and culturally appropriate diets for infants and young children, including by improving food security. Infant and young child feeding is a key area in improving child survival and promoting healthy growth and development. The first two years of a child's life are particularly important, as optimal nutrition during this period lowers morbidity and mortality, reduces the risk of chronic disease and fosters better development overall.[41]

64. Health care and other services can also play an important role in supporting adequate nutrition through provision of information to pregnant women and families on optimal nutrition, screening and provision of supplements. Breastfeeding remains one of the most effective interventions in reducing child mortality and morbidity. Therefore, ensuring that mothers have an enabling and supportive environment to breastfeed their children is crucial. This includes adequate maternity protection and protection from inappropriate marketing of breast milk substitutes in public and health-care settings.

65. In this connection, the importance of States' commitments under the global targets for improving maternal, infant and young child nutrition must be underlined. The targets are crucial to establishing priority areas for action and catalysing global change.[42]

Protection of children against all forms of violence

66. In recent years, research has investigated and highlighted links between exposure to violence and other adverse experiences and long-term health and development problems.[43] Violence includes "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse".[44] Violence most often occurs in the home, but it can also occur in the community.[45] Prolonged exposure to various forms of violence and insecurity can result in toxic stress. For young children, the effects of family violence can have

[40] WHO and Commission on the Social Determinants of Health, *Closing the Gap in a Generation: Health Equity through Action on the Social Determinants of Health* (Geneva, WHO, 2008), p. 50. Available from http://whqlibdoc.who.int/publications/2008/9789241563703_eng.pdf?ua=1.

[41] WHO, "Infant and young child feeding", Fact Sheet No. 342, February 2014.

[42] WHO, Global targets 2015 to improve maternal, infant and young child nutrition. Available from www.who.int/nutrition/global-target-2025/en/.

[43] WHO, *Addressing Adverse Childhood Experience to Improve Public Health: Expert Consultation, 4-5 May 2009*. Available from www.who.int/violence_injury_prevention/violence/activities/adverse_childhood_experiences/global_research_network_may_2009.pdf.

[44] Committee on the Rights of the Child, general comment No. 13 (2011), para. 4.

[45] G. Darmstadt, "Progress and challenges in ensuring healthy births and babies", *Early Child Matters*, June 2014, p. 14.

particularly negative consequences given their almost total reliance on family members for protection and support.

67. Violence and toxic stress can have a serious detrimental impact on children's health.[46] Addressing violence has intergenerational benefits since children who have not experienced violence are less likely to act violently in childhood and as adults.[47]

68. In 2011, the Committee on the Rights of the Child adopted general comment No. 13 on the right of the child to freedom from all forms of violence, which highlights a wide range of measures that States parties must take to address violence against children. Endorsing the approach taken by the Committee in the general comment, the Special Rapporteur wishes to emphasize the importance of a zero tolerance approach to any form of violence against children.

69. Parents or other primary caregivers play a central role in promoting healthy child development and strongly influence children's socialization. Early childhood development can be influenced by maternal nutrition, maternal mental and physical health, parental stress, depression and parenting styles. Although the role and rights of mothers are often — and rightly — given emphasis, the role and rights of fathers are also very important,[48] as are those of grandparents and other members of the extended family.

70. It should be noted that families take various forms and arrangements (see A/HRC/29/40)[49] and recognition of this diversity is crucial to ensure the protection and promotion of the rights of all of children and all parents, including the right to health, without discrimination of any sort.

71. The Special Rapporteur endorses efforts made at all levels of decision-making and policy implementation that support families, as the family is where children can best thrive. However, he recalls that children are all too often exposed to mental, physical and sexual violence within families.

72. Bearing this in mind, the Special Rapporteur urges all stakeholders to continue to support families with a variety of mechanisms and services aimed at strengthening their resilience, encouraging competent parenting and developing skills to address the challenges of bringing up children in responsive and non-violent ways. To that end, States should adopt legal and policy measures to eliminate all forms of violence against children, including banning corporal punishment in all settings, and prevent the perpetuation of a cycle of violence within families, communities and societies while strengthening community-based family support services.

73. In this connection, it is of special importance that all stakeholders understand the harmful effects of institutional care in early childhood; it is a form of violence against young children. The Special Rapporteur therefore urges all stakeholders to continue to implement the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex) and to expedite the process of eliminating institutional care for children under 3 years of age. Furthermore, he calls for

[46] Committee on the Rights of the Child, general comment No. 13 (2011), para. 15 (a).

[47] Ibid., para. 14; Paulo Sérgio Pinheiro, Independent Expert for the Secretary-General's Study on Violence against Children, *World Report on Violence against Children* (Geneva, 2006), pp. 63-66.

[48] G. Barker, "Why men's caregiving matters for young children: lessons from the Men Care campaign", *Early Childhood Matters*, June 2015, pp. 51-53.

[49] See also Committee on the Rights of the Child, general comment No.7 (2006), para. 15.

recognition of the detrimental effects of institutional care on the health and development of all young children and for the adoption of a common understanding that institutional care should not be accepted for children under 5 years of age.

74. The Special Rapporteur is also concerned about families and parents at risk and in vulnerable situations who are exposed to multiple forms of stress because of poverty, social exclusion and discrimination, including families who migrate, are internally displaced persons or refugees or belong to marginalized racial or ethnic groups and parents who use drugs or have mental health problems. The solution is not to blame parents and take their children away from them. It is first the responsibility of States to address discrimination and provide adequate support services so that risks are eliminated and the basic rights and needs of children are protected within the family environment.

75. For instance, mental health issues or drug use are not in themselves indicators of bad parenting, but rather a signal of a potential situation of risk. Parents with mental health challenges or with drug dependency issues who have young children should have access to appropriate services, such as psychosocial interventions or harm reduction services that encourage the development of healthy and nurturing relationships of parents with their children. Barriers to realizing the right to health of families at risk include the criminalization of parents who use drugs as well as policies that pursue the revocation of custodial rights of those with mental health issues. Criminalization and penalization drive families at risk, including parents who are drug dependent or have mental health problems, away from health and social services for fear of arrest and loss of their children.

C. Equality and non-discrimination

76. Inequalities and discrimination obstruct equitable healthy development and educational attainment among young children from marginalized groups, including persons living in poverty, minority and indigenous groups, the girl child, persons with disabilities, persons in underserved areas such as rural populations, refugees, internally displaced children and children living in areas affected by conflict. Inequalities and discrimination ultimately contribute to health and other inequalities later in life and to the intergenerational transmission of disadvantage.[50]

77. The twin fundamental human rights principles of equality and non-discrimination mean that States have legally binding human rights obligations to immediately address the healthy development of young children from marginalized groups so they can enjoy the right to health on the basis of equality. This obligation corresponds to the three pillars of the process of progressively achieving universal health coverage — expand priority services, include more people and reduce out-of-pocket payments — and must be addressed when providing services for young children and their families from disadvantaged groups.[51] The collection and analysis of disaggregated data are necessary to reveal which groups are disproportionately affected.[52] Outreach and other programmes are

[50] WHO and Commission on the Social Determinants of Health.

[51] WHO, *Making Fair Choices on the Path to Universal Health Coverage: Final Report of the WHO Consultative Group on Equity and Universal Health Coverage* (Geneva, 2014).

[52] Committee on the Rights of the Child, general comment No. 7 (2005), para. 36.

required to ensure that disadvantaged children enjoy the same access to health care and other relevant services as other children (A/HRC/7/11 and Corr.1, para. 42).

78. The following paragraphs address some of the groups of children that are marginalized in the context of early child development as well as the human rights obligations of States to address discrimination and its root causes.

The girl child

79. Gender biases within families give rise to a range of inequalities that obstruct the optimal development of the girl child. Where gender inequalities persist, boys may receive greater medical attention and girls may be vulnerable to discriminatory feeding patterns.

80. International human rights law places particular emphasis on the responsibility of States to address discrimination against women and girls and ensure that they enjoy their rights on the basis of equality with men and boys. Among other actions, States must ensure that national law provides a robust framework for gender equality and non-discrimination. In the context of early child development, policies and programmes must pay particular attention to redressing discrimination and to equality. For example, parenting programmes should be gender sensitive[53] and States should make particular efforts to address any discrepancy in educational attainment between girls and boys.

81. The Special Rapporteur wishes to highlight that the healthy development of boys is an important issue and should also be addressed. In many cultures boys are not allowed or encouraged to express their emotions, which results in the adult male population being more prone to violent and self-destructive behaviour. This inhibition relates to gender stereotyping that is harmful for both girls and women, boys and men.

Children with disabilities

82. Despite being more vulnerable to health and developmental risks, young children with disabilities are often overlooked in mainstream programmes and services designed to promote health to ensure child development. They also often do not receive the specific support required to meet their needs in accordance with their rights. Children with disabilities and their families are confronted with barriers that include inadequate legislation, policies and services, negative attitudes and a lack of accessible environments. Children with developmental disabilities, including intellectual disabilities and autistic-spectrum conditions, are still suffering from outdated approaches in many countries such as institutionalization and excessive medication.

83. Early intervention services for children with disabilities should follow a human rights-based approach, including provisions of the Convention on the Rights of Persons with Disabilities. Governments should ensure that all young children with disabilities grow up in families and that they and their families receive all necessary services to remove barriers and promote their rights in the same manner that the rights of children without disabilities are promoted. Practices based on institutional care and overuse of biomedical interventions for young children with

[53] WHO and Commission on Social Determinants of Health, p. 56.

developmental disabilities should be abandoned as they are outdated and often violate basic rights and freedoms.

Intersex children

84. "Intersex" refers mainly to physical aspects of the body and includes a wide range of natural body variations that do not conform to prevailing notions of male and female bodies.[54] Deeply rooted stereotypes around gender dichotomy and medical norms about male and female bodies have led to the establishment of a medical practice of routine interventions and surgeries on intersex people, including irreversible genital surgery and sterilization. These interventions are not always necessary on medical grounds and are often not performed with the informed consent of the persons concerned. Moreover, medical classifications currently codify intersex characteristics as pathologies or disorders.[55]

85. These practices, if performed without due consideration for the best interests and evolving capacities of young children, can have detrimental, long-lasting effects on their health and well-being; violate their basic rights to physical integrity, privacy and autonomy; and may amount to ill-treatment or even torture.[56] In addition, the sex assigned at birth becomes a legal and social factor, often permanent or difficult to change, that will determine the life and development of the child and affect his/her right to develop a personal identity.

86. On the basis of international human right law and standards,[57] States should prohibit unnecessary medical or surgical treatment during infancy or early childhood in order to guarantee the bodily integrity, autonomy and self-determination of the children concerned.

D. Participation

87. International human rights law recognizes that individuals and groups have the right to participate in decision-making processes that affect their rights.

88. States have a legally binding obligation to ensure the participation of rights holders in priority-setting; legislative and policy development, implementation, monitoring and evaluation; and accountability for the realization of the right to health and the holistic development of the young child. All segments of the population, including the most marginalized, must be empowered to participate (A/HRC/27/31, paras. 28-30). States must create an enabling environment for participation, for example by enhancing the knowledge and awareness of stakeholders, including the parents of young children.

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[54] OHCHR, Fact Sheet: "LGBT rights: frequently asked questions", 2013.

[55] Commissioner for Human Rights, Council of Europe, Issue Paper: "Human rights and intersex people", 2015.

[56] Joint statement by a group of United Nations and international human rights experts on the occasion of the International Day against Homophobia, Biphobia and Transphobia, "Discriminated and made vulnerable: young LGBT and intersex people need recognition and protection of their rights", 13 May 2015.

[57] See, for example, documents CRC/C/CHE/CO/2-4, CAT/C/DEU/CO/5, E/C.12/DEU/CO/5, CEDAW/C/CRI/CO/5-6, CRPD/C/DEU/CO/1, A/HRC/29/23, A/HRC/22/53 and A/64/272.

89. In the context of children under 5 years of age participation means two separate things. First, it means ensuring that parents, or other representatives, are able to access the information required for them to develop an informed opinion about the child's health status and potential interventions and to participate thoroughly in decision-making processes that affect their children's health, survival and development.

90. Second, in accordance with their evolving capacities, young children, including infants, have a right to express their views freely in all matters affecting them and to have these views taken into account.[58] Infants and very young children have particular forms of expression, which, because of their age, are sometimes non-verbal. Young children should be active participants in the promotion, protection and monitoring of their rights within the family, the community and society,[59] in accordance with their evolving capacities. States must therefore ensure the necessary institutional arrangements for the participation of young children and their caregivers.

E. Accountability

91. Accountability is essential if the right to health is to be more than window dressing. International human rights law provides a legal basis for accountability. The three primary components of accountability are monitoring, review and redress. Multiple administrative, political and legal accountability processes have a role to play in guaranteeing the right to health, including survival and development, in early childhood. These mechanisms should provide accountability for the protection of the rights to health and healthy development in early childhood in national policies, programmes and plans and in the delivery of services and enable individuals and groups to seek redress where this has not happened.

92. Accountability processes provide an opportunity for duty bearers to explain what they have done and for adjustments to be made where human rights have not been respected and protected. They equally provide rights holders with an opportunity to engage with duty bearers in relation to the promotion and protection of their rights and to seek redress where violations have occurred.

93. In recent years, the importance of accountability for the health of young children has been increasingly recognized by the international community, including in the Global Strategy on Women's and Children's Health and in the final report of the Commission on Information and Accountability for Women's and Children's Health.[60]

94. The potential of individuals, communities and civil society to act as key forces for change in health outcomes has received increasing attention in recent years, particularly in relation to accountability. Experiences of citizen accountability include the use of scorecards, social audits and new information technologies for social monitoring. Many civil society actors inform citizens about their rights and

[58] Convention on the Rights of the Child, art. 12.

[59] Committee on the Rights of the Child, general comment No. 7 (2005), para. 14.

[60] *Keeping Promises, Measuring Results*, 2011. Available from http://www.who.int/topics/millennium_development_goals/accountability_commission/Commission_Report_advance_copy.pdf.

the services they are entitled to and conduct third party monitoring and analyses. Budget analysis, public expenditure tracking and absenteeism surveys to monitor attendance of service providers in health facilities are other examples. It has been shown that responsiveness and transparency on the part of Governments are enhanced when citizen accountability is carried out effectively and their engagement has become central to implementing civil society recommendations for government priority-setting.

95. Accountability should include the development of new measures to monitor the development of young children, at the level both of the individual and the population. Therefore, the selection of indicators and the systematic gathering of data, disaggregated where appropriate, are not only essential to monitor progress but also to support accountability.

F. Obligations on the State

96. The Convention on the Rights of the Child provides a comprehensive normative and legally binding framework to address the right to health and the holistic development of the young child. States have legally binding obligations to adopt and implement laws, regulations, policies, budgetary measures, programmes and other initiatives to ensure the respect, protection and fulfilment of the right to health, including healthy development, in early childhood.

97. The right to health is subject to progressive realization and resource constraints.[61] This means that the right to health does not have to be realized immediately; rather, States must take effective and targeted measures towards the progressive realization of the right to health, including for the young child. This is similar to the concept of "progressive improvement" found in the Declaration of Alma-Ata. Progressive realization and resource availability also acknowledge the differences between high- and low-income countries.

98. However, given the overall low priority given to early childhood development reflected in low levels of funding for programmes, especially for children under 3 years of age, States should do their utmost to scale up investment in early childhood health and development.

99. Progressive realization has a number of implications. For example, States must have a national plan for the right to health and development in early childhood, the lead for which should be taken by the health authorities, especially for children under 3 years of age. In addition, coordinated governance across health, education and social protection policies, plans and programmes should be enhanced at both national and local levels.

100. Another implication of progressive realization is that there must be appropriate indicators and benchmarks to monitor progress in the realization of the right to health in early childhood.[62] Indicators must be disaggregated on suitable grounds, such as sex, socioeconomic status, age and ethnicity, to reveal whether the right to health is being realized on the basis of equality and non-discrimination. In recent

[61] International Covenant on Economic, Social and Cultural Rights, art. 2.1; Convention on the Rights of the Child, art. 4.

[62] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), paras. 57-58.

years, there has been progress towards the development of a set of globally accepted measurements and indicators on child development that could be used to monitor progress as well as for planning purposes in different countries.[63] Progress on this matter should be accelerated.

101. Certain "core obligations" are not subject to progressive realization and must be implemented immediately.[64] Core obligations include: (a) elaboration of a comprehensive national plan for the right to health, including development, in early childhood; (b) non-discriminatory access to health and other relevant services; (c) equitable distribution of health and other facilities for the right to health in early childhood; and (d) access to a minimum "basket" of health-related services and facilities (A/HRC/7/11, para. 52).

International cooperation and assistance

102. The right to health gives rise to an obligation of international cooperation and assistance.[65] High-income States have a duty to provide cooperation and assistance for the right to health in low-income countries. There is a particular obligation to assist with respect to core obligations. Low-income countries also have an obligation to seek appropriate cooperation and assistance.

103. As the global health agenda moves from a survival to a survival and development agenda, the Special Rapporteur urges high-income States to support low-income States in their endeavour to enhance the promotion and protection of the right to health in early childhood, including its developmental dimensions.

Obligations of the State in relation to, and responsibilities of, third parties

104. States, as primary duty bearers under international human rights law, are under a duty to protect the right to health by ensuring that the actions of third parties contribute to and do not jeopardize it.[66] For example, States must support and assist, to the maximum their extent of available resources,[67] parents and caregivers to care for children and secure the living conditions necessary for their health and optimal development; and protect child victims of violence and witnesses and investigate and punish those responsible for its occurrence.

105. It is also the obligation of States "to adopt legislation or to take other measures ensuring equal access to health care and health-related services provided by third parties."[68] In relation to early child development and survival, States should introduce into domestic law, implement and enforce the International Code on Marketing of Breast-milk Substitutes.[69]

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[63] P. Engle and others, "Strategies for reducing inequalities".
[64] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), paras. 43-45.
[65] International Covenant on Economic, Social and Cultural Rights, art. 2.1; Convention on the Rights of the Child, art. 4.
[66] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 51.
[67] Convention on the Rights of the Child, art. 4.
[68] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 35.
[69] Committee on the Rights of the Child, general Comment No. 15 (2013), para. 44.

V. Conclusions and recommendations

A. Conclusions

106. **The health, survival and healthy development of young children must be placed at the centre of the implementation of post-2015 agenda and other global, regional and national commitments and actions.**

107. **The right to survival as a central element of children's health is now widely recognized as a human rights and public health concern and concerted efforts by all stakeholders have resulted in a significant reduction of preventable infant and under-5 mortality. Despite this progress, in many countries and among disadvantaged groups of the population, mortality and morbidity rates in early childhood remain unacceptably high. More needs to be done to eliminate deaths from preventable causes in early childhood.**

108. **Beyond sheer survival, children have a right to thrive, develop in a holistic way to their full potential and enjoy good physical and mental health in a sustainable world. The right of young children to healthy development is crucial to promote and protect the right to health throughout life as well as to foster sustainable human development; however it has not yet received adequate attention.**

109. **Investing in healthy development, good mental health and emotional well-being in early childhood through effective public health, and psychosocial and psychoeducational interventions is not a luxury. The value of these interventions may be equal to the value of lifesaving essential medicines and vaccines, as they protect children from the detrimental effects of violence and other early childhood adversities.**

110. **Momentum now exists towards a new decade of focus on child development that builds on the progress made on child survival and takes it to the next step so that children can thrive, develop to their full potential and thus contribute to healthier societies and sustainable development.**

B. Recommendations

111. **States should be more intentional and explicit about the application of a human rights-based approach in their laws, policies, programmes, budgets and other measures. Good practices in applying human rights principles to addressing child survival and development worldwide should become the rule rather than the exception.**

112. **In this connection, the Special Rapporteur urges Governments:**

(a) **To address the youngest children, especially newborns and infants, as rights holders and to join forces with all relevant stakeholders to achieve a breakthrough by significantly reducing mortality and morbidity rates among newborns;**

(b) **To adopt a broader approach when investing in children's health by effectively addressing the detrimental impact of violence and early childhood adversities;**

(c) To introduce legal and policy measures that promote effective interventions to improve the quality of relationships between young children and parents, to promote the competence of parents and to equip and support them with skills for bringing up young children in a non-violent way;

(d) To ban corporal punishment of children in all settings, including in families, and to continue informing parents, policymakers and the general public that corporal punishment of children as well as all other forms of violence are against human rights and have serious detrimental effects on the health and development of young children;

(e) To initiate, support and sustain changes in child health-care policies and services so that the right of young children to healthy development is fully recognized;

(f) To promote the development and practical application of appropriate indicators and benchmarks to monitor progress in the realization of the right to health in early childhood, including in the areas of emotional and social development;

(g) To equip primary health-care and paediatric services not only with modern lifesaving medicines and vaccines, but also with knowledge and effective and culturally appropriate interventions based on research in neuroscience, psychology, developmental paediatrics and child psychiatry;

(h) To train health and other professionals working with children on human rights, including on early child development and the impact of quality relationships on physical and mental health during childhood and throughout life;

(i) To disseminate the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age to all relevant government sectors and ensure its systematic application in the development, implementation and review of laws, policies, budgets and programmes;

(j) To continue to implement the Guidelines for the Alternative Care of Children and to eliminate long-term placement of young children in institutional care;

(k) To eliminate institutional care for children during the first five years of life and promote investments in community-based services for families at risk, including for families living in poverty and those with young children with developmental and other disabilities;

(l) To comply fully with the standards contained in the Convention on the Rights of Persons with Disabilities and eliminate outdated practices based on institutional care and excessive medication of young children with developmental and other disabilities;

(m) To prohibit discrimination against intersex people, including by banning unnecessary medical or surgical treatment, and adopt measures to overcome discriminatory attitudes and practices through awareness-raising, training for public officials and medical professionals and the elaboration of

ethical and professional standards that respect the rights of intersex persons, in consultation with intersex people and their organizations;

(n) To put an end to the criminalization and penalization of parents in situations of risk and ensure their access to appropriate services and child-friendly treatment options.

113. **In addition, the Special Rapporteur recommends that other stakeholders:**

(a) Step up efforts to significantly reduce mortality and morbidity rates among newborns;

(b) Help disseminate the technical guidance to reduce and eliminate preventable mortality of children under 5 years of age and provide necessary technical assistance to States for its application;

114. **The Special Rapporteur also recommends that paediatricians, other medical doctors and health professionals play a more proactive role in educating families and other key actors about the health-related aspects of human rights of young children, including their right to healthy development.**

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Sustainable development

International Day of Forests

Report of the Secretary-General

Summary

The General Assembly, in its resolution 67/200, decided to proclaim 21 March the International Day of Forests, in order to celebrate and raise awareness of the importance of all types of forests and of trees outside forests. The present report is prepared pursuant to resolution 67/200, in which the Assembly requested the Secretary-General to submit to it, at its seventieth session, a focused and concise report on activities resulting from the implementation of the resolution. Based on voluntary input from 75 Member States and other relevant stakeholders, the present report provides an overview of activities undertaken in support of the International Day of Forests, since its first observance on 21 March 2013. The report also highlights initiatives undertaken by the secretariat of the United Nations Forum on Forests, including in collaboration with members of the Collaborative Partnership on Forests and United Nations entities.

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I. Introduction

1. As emphasized in the ministerial declaration of the high-level segment of the eleventh session of the United Nations Forum on Forests (see E/2015/42, chap. I, sect. A), the sustainable management of all types of forests is vital to facilitate transformative change and the achievement of sustainable development. It is estimated that over 1.6 billion people depend on forests for their subsistence, livelihoods, employment and income generation. At the same time, deforestation and degradation of forests continue to be a challenge for the world's forests. Ministers at the eleventh session of the Forum stressed the need to continue to promote a common understanding of the concept of sustainable forest management and to continue to cooperate internationally and bilaterally to promote sustainable forest management and address drivers of deforestation and forest degradation.

2. One of the key objectives of the international arrangement on forests beyond 2015 adopted at the eleventh session of the Forum (ibid., chap. I, sect. B) is to enhance cooperation, coordination, coherence and synergies on forest-related issues at all levels. Awareness-raising activities provide a framework for interactive communication and information exchange, which can facilitate cross-sectoral and cross-institutional cooperation and coordination.

3. The General Assembly, in its resolution 67/124 B, emphasized that public information and communication should be at the heart of the strategic management of the United Nations. In the same resolution, the Assembly recognized that developments in information and communications technologies open vast new opportunities for economic growth and social development, and can play an important role in the eradication of poverty in developing countries.

4. On 21 December 2012, the General Assembly, in its resolution 67/200, decided to proclaim 21 March the International Day of Forests, in order to celebrate and raise awareness of the importance of all types of forests and of trees outside forests.

5. In the same resolution, the General Assembly requested the secretariat of the United Nations Forum on Forests, in collaboration with the Food and Agriculture Organization of the United Nations (FAO), to facilitate the implementation of the International Day of Forests, in collaboration with Governments, the Collaborative Partnership on Forests[1] and international, regional and subregional organizations and processes as well as relevant major groups.

[1] The Collaborative Partnership on Forests consists of 14 organizations working in association to promote the implementation of sustainable forest management, namely, the Centre for International Forestry Research, the Food and Agriculture Organization of the United Nations, the International Tropical Timber Organization, the International Union of Forest Research Organizations, the secretariat of the Global Environment Facility, the secretariat of the Convention on Biological Diversity, the secretariat of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, the secretariat of the United Nations Framework Convention on Climate Change, the secretariat of the United Nations Forum on Forests, the United Nations Development Programme, the United Nations Environment Programme, the World Agroforestry Centre, the World Bank and the International Union for Conservation of Nature.

6. The present report is prepared pursuant to resolution 67/200, in which the General Assembly requested the Secretary-General to submit to it at its seventieth session a focused and concise report on activities resulting from the implementation of the International Day of Forests.

II. Actions undertaken in support of the International Day of Forests

A. Activities undertaken by the secretariat of the United Nations Forum on Forests

7. In 2013, the Graphic Design Unit of the Department of Public Information developed the official logo for the International Day of Forests[2] in collaboration with the secretariat of the United Nations Forum on Forests. The logo design is based on that of the previous International Year of Forests, 2011. The iconographic elements in the design depict many of the multiple values and benefits of forests and sustainable forest management. The logo was approved by the United Nations Publications Board and launched in all six official United Nations languages in March 2013.

8. In 2015, the Forum secretariat worked with members of the Collaborative Partnership on Forests[3] to propose a central theme for the 2015 and 2016 celebrations of the International Day of Forests. It was thought that a global theme would help to coordinate communications and messages from the forest community, while it was recognized that countries and organizations would tailor the theme to their own priority areas. To that end, the Collaborative Partnership on Forests has proposed that the 2015 International Day of Forests should highlight the interlinkages between forests and climate change, and the 2016 Day should highlight the interlinkages between forests and water.

9. In 2014 and 2015, the Forum secretariat held special events to celebrate the International Day of Forests at United Nations Headquarters in New York. In 2015, the special event for the Day, on the theme "International Day of Forests: create a climate smart future", focused on highlighting forest-based solutions to climate change, and sustainable development more broadly. The event was chaired by the Director of the Forum secretariat, Manoel Sobral Filho, and featured opening remarks by the Deputy Permanent Representative of Gabon, Marianne Odette Bibalou. The event included a panel discussion on the theme "Forest-based solutions for climate mitigation and adaptation" with members of the Collaborative Partnership on Forests, including the Permanent Observer of the International Union for Conservation of Nature (IUCN) at the United Nations, Narinder Kakar; the Director of the FAO Liaison Office in New York, Sharon Brennen-Haylock; and the Chief of the Liaison Office in New York of the United Nations Convention to Combat Desertification, Melchiade Bukuru. During the general discussion, statements were made by the Deputy Permanent Representatives of Israel, Italy and the Russian Federation, as well as the representatives of Brazil, Iran (Islamic Republic of) and Japan.

[2] www.un.org/esa/forests/outreach/international-day-of-forests/logo/index.html.

[3] www.cpfweb.org/en/.

10. In 2014, the International Day of Forests special event, "My forest, our future: celebrating forests for sustainable development", focused on highlighting the role of women as agents of change for forests and sustainable development. The event was chaired by the Assistant Secretary-General for Economic and Social Affairs, Thomas Gass. It included opening remarks by the Deputy Permanent Representative of Gabon and featured a keynote address by the Under-Secretary-General and Chef de Cabinet in the Executive Office of the Secretary-General, Susana Malcorra. The event included a panel discussion on the theme "Women as agents of change for forests and sustainable development", with inspiring speakers and award-winning short films. Panellists included Forest Heroes Madison Vorva and Rhiannon Tomtishen and the award-winning filmmaker Rosa Rogers. During the general discussion, statements were made by the Permanent Representative of Indonesia, the Deputy Permanent Representatives of Argentina, Brazil, Finland, Gabon (on behalf of Forest Eleven) and the Russian Federation, as well as the representatives of Peru, Turkey and Suriname, followed by the representative of FAO. In addition to the special event, the 2014 celebration at United Nations Headquarters included a week-long series of film-screenings, and a two-week exhibition of award-winning photographs and children's art.

11. The special events were webcast live by United Nations Web TV and tweeted live by the Communications and Information Management Service of the Department of Economic and Social Affairs. In 2014, the live webcast by United Nations Web TV engaged a global audience of more than 5,000 viewers. Over 100 experts, including representatives of Member States, regional organizations, members of the Collaborative Partnership on Forests and non-governmental organizations attended the events.

12. Since the first observance of the International Day of Forests in 2013, the Forum secretariat has been facilitating the preparation of messages from the Secretary-General on the occasion of the Day, as well as press releases on the Day. The press releases have also featured quotes from heads of member organizations of the Collaborative Partnership on Forests, showcasing international action for forests and sustainable forest management.

13. In addition to messages from the Secretary-General and United Nations press releases and news stories, a large component of the communications campaign spearheaded by the Forum secretariat relied on utilizing social media. Through visual content, from award-winning films to infographics and ready-to-print forest posters, the campaign cultivated a diverse audience.

14. The 2014 social media campaign reached over 2.3 million Twitter accounts, making over 7 million impressions on 21 March 2014. The 2015 social media campaign saw a six-fold jump, reaching 20 million Twitter accounts and making 43.6 million impressions on 21 March. Over the course of the 21-day campaign in 2015, 26.5 million accounts were reached, making 87 million impressions.

15. The 2014 and 2015 social media campaigns were conducted by the Forum secretariat in partnership with the Department of Public Information, the Communications and Information Management Service of the Department of Economic and Social Affairs and members of the Collaborative Partnership on Forests.

16. Design products and multi-media content have been essential for the success of digital campaigns. In 2015, the Graphic Design Unit of the Department of Public Information developed a special poster to co-brand the International Day of Forests with the United Nations "Time for Action" campaign. The poster was shared through social media with the public, United Nations Information Centres, United Nations partners and Forum on Forests National Focal Points.

17. The Forum secretariat, in collaboration with the Graphic Design Unit, has designed a menu of digital products for the International Day of Forests, which can be downloaded and printed on demand. These included promotional videos, 20 posters featuring forest heroes and children's art (2013-2015), 22 postcard designs featuring award-winning forest photographs (2013-2014), an exhibition booklet (2014) and a banner displayed on the fence near the visitors' entrance to the United Nations compound, as well as roll-up banners promoting facts about the Day. Of the top six Facebook posts in 2014, five were of design products. Of the top 10 tweets in 2014, three were of design products. All of the design products are available on the Forum secretariat's website.[4]

B. Activities undertaken by Member States

18. The Forum secretariat has received information from 75 countries on their celebrations of the International Day of Forests through voluntary national reports and communiqués. Many countries reported having formed partnerships with non-governmental organizations, research institutions, United Nations entities, the private sector and development actors to extend the reach of their advocacy efforts. Local communities, civil society organizations and United Nations entities together raised awareness about forests, launching campaigns on the need to invest in forests, and the links between forestry data and efforts to combat climate change. Low-forest-cover countries like Armenia, the Comoros, Kenya, Mauritania, Nigeria, Pakistan, Saudi Arabia, South Africa and Yemen also celebrated the Day.

19. In 2014 and 2015, senior officials including Heads of State and Ministers of Environment from countries including Argentina, Brazil, Gabon, Guatemala, Jamaica, Kenya, Madagascar, Myanmar, Portugal, Zimbabwe and the State of Palestine participated in official ceremonies and events for the International Day of Forests. Those advocacy efforts spanned a broad spectrum of activities and often included tree-planting activities, as was the case in Algeria, Chile, China, Gabon, Grenada, India, Indonesia, Iran (Islamic Republic of), Kenya, Lithuania, Madagascar, Malaysia, Myanmar, Nigeria, Papua New Guinea, Portugal, Samoa, Serbia, South Africa, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the State of Palestine.

20. In 2015, the digital campaign in the United States of America, "The power of one tree — imagine what a forest can do", was accompanied by a Twitter hashtag (#ImagineWhataTreeCanDo) and included daily posts on national forest websites, Facebook and Twitter, as well as blog posts and e-brochures on how trees help to fight climate change. India launched a new online portal focused on promoting the benefits of forests through Indiaforest. Forest Europe developed a series of infographics, fact sheets and posters drawing on videogame images from the 1980s

[4] www.un.org/esa/forests/outreach/international-day-of-forests/design/index.html.

with the tag line "because climate change is not a game!" FAO developed a quiz, a WhatsApp message and 60-second promotional video, in addition to a special event on forests and climate change at FAO headquarters in Rome.

21. In 2015, Brazil awarded prizes to students and professionals for research papers and case studies on forests and economic development, while Cyprus engaged students through a series of lectures from the Department of Forests. The FAO Regional Office for Asia and the Pacific organized a Kids-to-Forests field excursion for students and teachers to provide hands-on experience in forest restoration and sustainable forest management, in collaboration with local communities and governmental organizations.

22. Through tree-planting, Chile promoted knowledge of the role of forests in combating climate change, while in Iran (Islamic Republic of), Malaysia and Uganda tree-planting activities highlighted the need to protect and conserve forests and natural resources. Some countries, including Cyprus, the Republic of Korea and South Africa, celebrated the International Day of Forests as a complementary campaign to national Arbor Day celebrations. The Republic of Korea celebrated the International Day of Forests and the seventieth Arbor Day through a tree-hugging campaign that set the new Guinness world record (for largest tree hug). Over 1,200 people participated in the tree-hugging campaign at the Korea National Arboretum in Pocheon, Gyeonggi Province, Republic of Korea, on 21 March 2015.

23. The African Union's 2015 campaign on the theme "Addressing climate change in Africa through sustainable forest management," in partnership with FAO, included an expert panel discussion on the need for the forestry sector in Africa to work across sectors in improving policies and mechanisms for participatory and community-based land management. The International Tropical Timber Organization launched two flagship publications on sustainable forest management in the tropics, on issues related to voluntary guidelines for sustainable forest management and quantification of carbon benefits in the organization's projects.

24. Spain celebrated one hundred years of sustainable forest management of one of its national parks, in 2015. The Economic Commission for Europe and FAO held a series of round-table discussions, press conferences and an exhibition on "Forests for food — Food for forests". Italy organized a photography contest entitled "Click ... the forest awakens" from 21 March to 21 May 2015.

25. In 2015, Jamaica's Forestry Department organized a forest trek, to take members of the public on a hike through a forest to enjoy the biodiversity and beauty of the environment while exercising. Algeria organized courses on afforestation techniques, while India engaged nearly 200 forestry officers and scientists in brainstorming workshops on emerging issues in the forestry sector. Mexico held a series of talks, aimed at college students, on the importance of State forests.

26. During its 2014 celebration of the International Day of Forests, the Dominican Republic recognized the contributions of goods and services provided by forests for the welfare of society. The United States focused on the importance of the benefits of forests to all citizens, while Nepal celebrated forest conservation and management at the local level and Jamaica raised awareness of the role of people in protecting and sustainably utilizing forests. Zimbabwe focused its celebrations on the topic of protecting forests for improved livelihoods, and encouraged knowledge-

sharing on community-based forest management and small and medium-sized forest enterprises. The State of Palestine emphasized the socioeconomic aspects of forests and promoted afforestation activities. Madagascar promoted the multifunctional importance of forest ecosystems through public advocacy campaigns broadcast on television and radio.

27. Indonesia ran a television and radio campaign, a photography contest on Facebook and an exhibition on forests and national development, and complemented those outreach initiatives with posters and banners to promote the 2014 International Day of Forests. Samoa ran radio and television advertisements, organized poster competitions, and held traditional singing contests. Ukraine held a drawing and essay competition on forests and people for students.

28. The Dominican Republic, Jamaica, Madagascar and Portugal organized forestry debates, seminars and conferences, along with sculpture and painting exhibitions in 2014. In addition to organizing an exhibition involving environmental agencies and a radio campaign, Jamaica encouraged students to express their views on forests through a poetry competition. Switzerland, together with the Economic Commission for Europe and FAO, hosted an art event entitled "Forests for fashion" that included day-long events focusing on the contributions of the sustainable forestry sector. Artists, designers and representatives of the private, business, fashion and forestry sectors gathered to discuss the potential of forests to supply sustainable fibres. Zimbabwe organized an exhibition on the value of forestry for food security.

III. Actions undertaken by Member States to raise awareness of forests

29. The lack of political and public awareness of forests is often cited as a challenge related to implementation of sustainable forest management. In national reports submitted to the United Nations Forum on Forests at its eleventh session,[5] 81 countries reported having carried out a wide range of communications activities to raise public awareness of important benefits arising from forests.

30. Seventy-five countries published promotional materials on forests, such as brochures, pamphlets, leaflets and posters. In its eighth national forest inventory report, China highlighted the role of forests in socioeconomic development, in maintaining ecological security and in addressing climate change. Guinea raised public awareness through pamphlets in its national languages. Indonesia produced posters and brochures to engage youth at schools. Guatemala and Malaysia focused on mangrove protection and training forest producers, and New Zealand and Samoa released publications on sustainable forest management. Portugal launched a national campaign to illustrate the socioeconomic importance of forests to the national economy.

31. Seventy-two countries reported having broadcast campaigns promoting forests through television and radio stations. Among those countries were Azerbaijan, Belarus, Botswana, Canada, Costa Rica, Cyprus, the Dominican Republic, Guatemala, Iran (Islamic Republic of), Jordan, Liberia, Malaysia, Myanmar, the

[5] www.un.org/esa/forests/documents/national-reports/unff11/index.html.

Niger, Pakistan, Panama and Saint Vincent and the Grenadines. The Congo, Grenada and Lithuania broadcast campaigns on sustainable forest management. China focused on achievements in forest shelter belts, while Yemen ran weekly radio and television programmes dedicated to the importance of afforestation and forest and soil conservation. Bolivia (Plurinational State of) promoted awareness of the benefits arising from forests through television commercials. Japan ran television and radio programmes and supported the production of forest-related novels and movies with the private sector. The United States created various materials, including documentaries, public service announcements and data-sharing tools, and promoted international cooperation with the Working Group on Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests for non-European Countries. It also created 45 videos showcasing forest projects for the World Congress of the International Union of Forest Research Organizations and launched an advertising campaign on forest fire prevention. The State of Palestine created a film about the rehabilitation of degraded vegetation in dry areas.

32. Fifty-nine countries, including France, Lithuania, Madagascar, Mauritius and the United States, held exhibitions and art events; a photography exhibition was held in Mexico; film festivals were held in Albania and Nigeria; theatre performances were held in the Congo; an open-air museum on forestry was created in Slovakia; and travelling exhibitions were organized in India and Luxembourg.

33. Sixty-seven countries, including Afghanistan, Angola, Canada, Côte d'Ivoire, Liberia and the Russian Federation, reported on public events held to promote the important benefits of forests. The participatory process for the preparation of the *Government Report on Forest Policy 2050* of Finland involved regional meetings and wider public engagement through an online portal. Debates, seminars and conferences on developments and scientific research in the forestry sector were held in Malaysia, the Niger, Romania and Slovakia and annual trade shows were held in Canada, Kenya and the United Republic of Tanzania.

34. Eighteen countries reported hosting other activities to promote public engagement in forest activities. Among the activities were nationwide tree-planting events in Botswana, Canada, China, Jamaica, Japan, Kenya and Liberia and reforestation campaigns in Madagascar, Malaysia, Mauritania, Myanmar, the Niger, Nigeria and the United Republic of Tanzania.

35. A number of countries established awards for excellence in the field of forestry. Austria awarded individuals a "forest ambassador prize" as part of its national forest week celebrations. Similarly, an annual prize for achievement in the area of forest economics and markets was awarded in Brazil. Kenya granted awards for sustainable livelihood and integrated approaches to ecosystem rehabilitation. Mexico established its national forestry merit award and, in 2011, Portugal launched a national prize for architecture in wood to encourage and promote the forestry sector. Samoa focused on innovation through a participatory three-dimensional modelling process.

IV. Conclusions

36. **The General Assembly in its resolution 67/200 noted that there was no globally recognized date for commemorating and raising awareness of forests and sustainable forest management, prior to the establishment of the**

International Day of Forests. At the same time, the Assembly recognized the many existing events, at all levels, which celebrate and honour all types of forests and trees outside forests. The numerous events held worldwide in celebration of the International Day of Forests, since 2013, demonstrate both the high level of interest in forest-related issues and the relevance of sustainable forest management to development challenges.

37. Through the communication campaigns held at the subnational, national, regional and international levels, the International Day of Forests has undoubtedly helped to shine a spotlight on the importance of forests in creating a greener, more sustainable future for all. In this regard, raising awareness of the importance of forests and trees is an integral component of efforts to strengthen implementation of sustainable forest management and to integrate forests into the post-2015 development agenda.

38. While there is no "one size fits all" approach to raising awareness, the inputs received show that the key types of communication activities were launching of publications, television and radio broadcast campaigns, community events such as tree plantings, learning events such as workshops and symposia, cultural events featuring art, music and poetry, and awards recognizing excellence in the field of forestry.

39. Sharing information and promoting greater understanding of forests can be achieved through the multiple activities described above. Changing behaviour is more difficult to achieve and measure, however. In an age of information overload, communication campaigns have to be targeted to specific audiences: for example, statistics and data often resonate better with policy and scientific communities, while personal stories often resonate better with community and youth constituencies.

V. Recommendations

40. The General Assembly may wish:

(a) To take note of the activities undertaken in support of the International Day of Forests, and renew its invitation to all Member States to devote the International Day of Forests to presenting and promoting concrete activities with regard to all types of forests and trees outside forests;

(b) To further encourage Governments, relevant regional and international organizations and major groups to organize activities related to all types of forests and trees outside forests, and support such activities, inter alia, through voluntary contributions;

(c) To encourage all relevant organs of the United Nations, including the functional commissions and the regional commissions, as well as United Nations system agencies, funds and programmes, to fully support, contribute to and participate in the activities related to the observance of the International Day of Forests;

(d) **To promote the observance of the International Day of Forests not as an isolated event but as part of a continuing process of advocacy and partnership to foster greater awareness and action to further strengthen sustainable forest management at all levels, including through the promotion of forest contributions to the post-2015 development agenda, and the communication strategy of the strategic plan of the international arrangement on forests for the period 2017-2030.**

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General Assembly

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Seventieth session
Item 20 of the provisional agenda*
Sustainable development

Sustainable tourism and sustainable development in Central America

Report of the Secretary-General

Summary

The present report, submitted pursuant to General Assembly resolution 68/207 on sustainable tourism and sustainable development in Central America, provides an update since the issuance of the previous report on the subject (A/68/278) on the continuing efforts of Central American States to implement programmes to promote sustainable tourism and sustainable development.

* A/70/150.

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I. Introduction

1. By its resolution 68/207 on sustainable tourism and sustainable development in Central America, the General Assembly requested the Secretary-General to report to the Assembly at its seventieth session on developments relating to the implementation of the resolution. The World Tourism Organization, as the specialized agency of the United Nations system vested with a central role in promoting the development of responsible, sustainable and universally accessible tourism, took the lead in preparing the present report, which is submitted in response to that request.

2. Early in 2015, the World Tourism Organization surveyed Central American States to monitor the implementation of the resolution, but only Nicaragua responded, the considerable efforts invested in the process notwithstanding. Accordingly, it is not possible to draw broad conclusions for the entire region.

3. The present report, based on the single response received and a brief overview of relevant publications, provides an update since the issuance of the previous report on the subject (A/68/278) on the continuing efforts of Central American States to implement programmes to promote sustainable tourism and sustainable development.

4. According to the *World Tourism Barometer* (April 2015), international tourism in Central America has grown significantly in recent years. In 2013, the region received almost 9 million international tourists who generated $9 billion in revenue, up from 4.3 million arrivals and $3 billion in revenue in 2000. In 2014, destinations such as Costa Rica, El Salvador and Nicaragua recorded growth of 4 per cent in international arrivals compared with 2013, while Honduras reported growth of 5 per cent, Belize 6 per cent and Guatemala and Panama 3 per cent. Consequently, overall arrivals grew at double the rate recorded in 2013, well above the global average.

5. At the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, Heads of State and Government adopted a 10-year framework of programmes on sustainable consumption and production patterns as a global framework for action to enhance international cooperation to accelerate the shift towards sustainable consumption and production in developed and developing countries. A sustainable tourism programme was one of the five initial programmes approved at the Conference under the 10-year framework and is of crucial importance to achieving global sustainability for the tourism sector over the coming decade. It is an important mechanism to support the implementation of regional strategies on sustainable consumption and production and to scale up and replicate good practices and successful sustainable tourism initiatives at the national and regional levels with a view to ensuring that tourism contributes effectively to sustainable development, all within the framework of the proposed sustainable development goals, especially targets 8.9 (by 2030, devise and implement policies to promote sustainable tourism that creates jobs and promotes local culture and products), 12.b (develop and implement tools to monitor sustainable development impacts for sustainable tourism that creates jobs and promotes local culture and products) and 14.7 (by 2030, increase the economic benefits to small island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism).

II. Overview of activities in Nicaragua

A. Framework policies and legislation for sustainable tourism development

6. Nicaragua has developed a national plan to promote human development for the period 2014-2016. Guidelines for the national strategic plan for tourism have also been adopted, promoting a model of tourism development that is sustainable, ethical, humane, participatory, inclusive and respectful of values, customs and traditions. At the Euroferia forum, held in Nicaragua in May 2015, a memorandum of understanding was signed by the Nicaraguan Tourism Bureau, the Nicaraguan Tourism Board and the Nicaraguan Chamber of Micro, Small and Medium-sized Travel Enterprises, aimed at advancing the country's positioning as a sustainable destination and promoting certification in sustainable business practices, including training and awareness-raising activities on environmental issues and climate change.

7. Nicaragua has also improved existing legislative frameworks to foster the development of sustainable tourism, in particular in the areas of protection of biodiversity, natural and cultural heritage, indigenous and/or community development and sustainable consumption and production. The improvements result from the enactment of new legislation, such as a law on sustainable rural tourism and its related regulatory decree and a law declaring the Corn Islands a heritage tourism site.

B. Resilience and protection and conservation measures

8. Nicaragua has established a national system for disaster prevention, mitigation and response that involves public and private institutions dealing with disaster management. It adopts a decentralized and participatory approach, comprising municipal disaster prevention committees that in turn include departmental and municipal tourism offices. Similarly, at the national and departmental levels, the Nicaraguan Tourism Board participates in monitoring and control mechanisms in relation to any eventuality that may affect the country's principal destinations. Domestic tourism is a strategic segment, with a focus on promoting tourism development programmes that underscore the country's cultural, historical and natural heritage. Tourism promotion campaigns are therefore organized to ensure that the local population can enjoy access to leisure and recreational activities and that stakeholders in the sector can diversify and develop products that will be of greatest benefit to the community, socially, economically and culturally.

9. Nicaragua has also introduced new fiscal measures to improve the sustainability of the tourism sector. For example, its tax legislation has been modified to reduce the amount of up-front investment required, thereby fostering the development of more small and medium-sized tourism enterprises.

C. Facilitation of travel and air connectivity

10. The Government has identified air connectivity as a factor limiting the development of tourism and made special efforts to increase investment in aviation

infrastructure, the frequency of flights and the number of routes. Furthermore, new visa policies have been implemented, making the country more accessible to international travellers.

III. Overview of regional initiatives on sustainable tourism and sustainable development

11. Tourism has become a driving force for political and economic integration in Central America, led by the Central American Integration System. As the key institution responsible for the overall regional management of tourism policy, the Central American Tourism Integration Secretariat works closely with the Central American Integration System and other bodies to coordinate tourism policy with other regional integration aspects.

12. In the framework of the Central American Commission on Environment and Development, there is a project, supported by the Federal Ministry for Economic Cooperation and Development of Germany, to assist the States members of the Central American Integration System in implementing environmental compensation mechanisms for the reduction of carbon dioxide emissions from deforestation and forest degradation, for the long-term sustainable management and preservation of natural resources (see www.reddccadgiz.org/).

13. The Mesoamerican Reef is a natural, cultural and economic asset to the people of Belize, Guatemala, Honduras and Mexico. Those four countries collectively protect 35 per cent of their territorial seas and 67 per cent of their coral reef habitats within marine protected areas, in excess of most international targets. Since 2012, they, in cooperation with international agencies and institutions, have been undertaking many initiatives, such as a strategic plan for the conservation of the Mesoamerican Reef region, intended to strengthen the protection of the terrestrial and marine environments, which was launched in 2014.

14. At the regional level, through the Central American Tourism Integration Secretariat and its member States, a strategic plan for sustainable tourism development, covering the period 2014-2018, has been adopted. Various programmes of the plan have been implemented, encompassing such cross-cutting areas as biodiversity protection, cultural and heritage preservation, climate change, indigenous and community development, sustainable consumption and production and safety and security.

IV. Conclusions and recommendations

15. **Nicaragua has made significant efforts to support the development of sustainable tourism, including the adoption of new legislation and the establishment of fiscal measures to increase competitiveness, improve air connectivity, facilitate the issuance of visas and enhance the protection of biodiversity, cultural heritage and community rights. Furthermore, it has supported the development of national strategies for disaster prevention that engage the tourism sector in a public-private partnership to facilitate monitoring and control mechanisms so as to ensure that the main Nicaraguan**

destinations are prepared for any eventuality. Numerous efforts have also been undertaken at the regional level by several bodies.

16. **In addition to promoting regional cooperation and enhancing mechanisms for private sector participation, priority should be given to implementing consistent and consolidated global policies for sustainable development. Strengthening collaboration on and alignment of sustainable activities at the national, regional and global levels has the potential to provide effective support for evidence-based policy formulation and scaling up of good practices for the development of sustainable tourism in all its forms and in all States Members of the United Nations. In that respect, the Central American Tourism Integration Secretariat framework can contribute to fostering further engagement at the national, regional and global levels, something that is essential to aligning policies with a universally shared agenda.**

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Seventieth session
Item 73 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, submitted pursuant to Human Rights Council resolutions 17/4 and 26/22.

* A/70/150.

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Summary

In the present report, the Working Group on the issue of human rights and transnational corporations and other business enterprises discusses the issue of measuring the implementation of the Guiding Principles on Business and Human Rights of the United Nations. Businesses may have an adverse impact on every human right, in any country in the world. Yet there is no comprehensive data on the nature, scale or extent of that impact. Likewise, there is no comprehensive data on the efforts made by States and companies to prevent and remedy business-related harm. The Working Group has thus identified measurement as a priority for its mandate.

In the present report, the Working Group has assessed existing measurement initiatives, including not only those specific to measuring the implementation of the Guiding Principles, but also those relating more broadly to business and human rights, social impacts and sustainability. It has highlighted gaps in coverage and some considerations to bear in mind when moving forward with the issue, and identified key entry points that could greatly strengthen the incentives and impetus for the implementation of the Guiding Principles. The report ends with concrete recommendations to States, business enterprises, international organizations, civil society and academics, national human rights institutions and the human rights system of the United Nations.

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I. Introduction

A. Need for measuring progress on the Guiding Principles on Business and Human Rights

1. In the present report, the Working Group on the issue of human rights and transnational corporations and other business enterprises has focussed on the issue of measuring the uptake and implementation of the Guiding Principles on Business and Human Rights.

2. Since the unanimous endorsement of the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework by the Human Rights Council in its resolution 17/4, in 2011, the Guiding Principles have become the authoritative global reference for preventing and addressing adverse impacts on human rights arising from business-related activity. The Working Group, established in the same resolution, is mandated to promote and contribute to the uptake and implementation of the Guiding Principles. The Guiding Principles are a blueprint to manage the impacts of business operations on human rights. By "managing", the Working Group means the efforts by both States and companies to protect against and remedy the adverse impacts of business operations and to respect human rights. Those efforts must be measured and tracked.

3. The Working Group has identified measurement as a priority for a number of reasons. First, significant challenges and opportunities arise from attempting to measure the uptake and implementation of the Guiding Principles. Information on State protection against human rights abuses by companies, as well as the scale and nature of those abuses, is not systematically gathered or reported. This is understandable given the sheer novelty of the business and human rights agenda. Almost no State knows whether its laws, regulations and policies are fully in line with the Guiding Principles, and the same can be said for companies. That makes it difficult to assess whether the efforts by States, businesses, civil society and, indeed, the Working Group to diffuse and implement the Guiding Principles are having a positive effect.

4. Second, not only does the international community lack comprehensive data on the implementation of the Guiding Principles, but it also lacks consensus of what such data should comprise. A number of initiatives and tools are available to measure business performance or the State environment in which business takes place. Since the endorsement of the Guiding Principles, recent initiatives have been undertaken specifically to measure the extent to which States and businesses carry out their respective duties and responsibilities as elaborated in the Guiding Principles, and the Working Group commends such efforts. Taken together, those initiatives demonstrate both the wealth of available information and that such information has not been unified or collated in a manner that enables a clear assessment of the implementation of the Guiding Principles. The task is now to bring together those initiatives and clarify what information is necessary to determine whether the Guiding Principles are implemented in practice. In the same way that the international community has converged around the Guiding Principles, it is time to seek convergence towards measuring whether they are being realized.

5. The Working Group wishes to clarify at the outset that the need for convergence in measurement does not mean that measurement must happen in the same way in all

contexts, or that countries' and companies' performance should be assessed in a same manner or with the same outcome. Measurement must take into account the context of any given State and its available resources, as well as the size, purpose, location and sector of a given company. However, just as the Guiding Principles apply to every country, context and company, so can the means by which the international community determines whether they are being successfully implemented.

6. Convergence towards such a determination is crucial for the prevention and remediation of human rights abuses by business enterprises, which are the ultimate goal of the Guiding Principles and, indeed, the Working Group. Recent experience has shown that measurement efforts can help to clarify commitments and coordinate action across stakeholder groups. The Millennium Development Goals, for example, galvanized States and donors to coordinate their poverty-reduction efforts around concrete targets and indicators. Current negotiations around the sustainable development goals reflect a similar coordinated effort to focus diverse efforts on unified targets. The Working Group believes that convergence towards measuring the implementation of the Guiding Principles will help States and companies to embed the Guiding Principles in concrete action.

7. In addition to helping to operationalize and clarify commitments, measurement also serves as an internal management tool. The Guiding Principles require that companies take steps to know and show that they respect human rights. Guiding principle 20 specifically calls upon business enterprises to track the effectiveness of their response in order to verify whether adverse impacts on human rights are being addressed. The Working Group argues that that is relevant to States as well. An internal tracking system helps Governments and companies to identify gaps in performance and accountability and to drive continuous improvement.

8. For both companies and States, gathering data on a particular activity or human rights issue, and making that information available either internally or externally, also foster accountability and help with the identification, sharing and diffusion of good practices. For all actors, a rigorous evidence base leads to good policymaking.

9. Recognizing the value of tracking progress and identifying and sharing practices, the Human Rights Council encouraged the Working Group to identify and promote best practices in the national implementation of the Guiding Principles, and to reflect its findings, including in global progress on the implementation of the Guiding Principles, in its annual reports (resolution 26/22, para. 6). In the same resolution, the Human Rights Council welcomed the efforts of the Working Group to build a database of national action plans on business and human rights (which are available in the Working Group's section of the United Nations Human Rights website)[1] and other relevant data on global progress in the implementation of the Guiding Principles. Tracking progress in implementing the Guiding Principles will also be a priority theme at the fourth Forum on Business and Human Rights, in November 2015,[2] in response to calls made at the previous Forum to increase focus on measurement (see A/HRC/FBHR/2014/3).

[1] www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx.

[2] www.ohchr.org/EN/Issues/Business/Forum/Pages/2015ForumBHR.aspx.

B. Aims and outline of the report

10. The present report has three objectives: first, to describe existing initiatives to measure the implementation of the Guiding Principles; second, to identify gaps where further initiatives are needed and positive elements and endeavours that need to be supported and reinforced; and third, to galvanize action towards converging on a coherent framework for measuring the implementation of the Guiding Principles.

11. Section II takes stock of the range of measuring and tracking initiatives in the field of business and human rights in a broad sense. The report does not intend to cover the entire spectrum of initiatives or to provide a comprehensive mapping of current practice. Rather, it seeks to identify approaches that may provide data, methodologies or partners for future initiatives.

12. Section III offers observations on existing initiatives and highlights elements of the Guiding Principles that are not covered by current measurement efforts. The purpose of that section is to discuss some of the limitations and challenges of measuring such a complex issue as business and human rights, and lessons learned from current activities.

13. Section IV describes actions that could greatly strengthen the existing state of play on measuring the implementation of the Guiding Principles. It is acknowledged that no measurement attempt will suit all countries, companies or purposes, but that convergence and consensus around some key entry points will exponentially assist in the dissemination and uptake of the Guiding Principles. The Working Group ends by making concrete recommendations to States, business enterprises, international organizations, civil society and academics, national human rights institutions and the human rights system of the United Nations on how to move that issue forward.

14. The present report is also based on a consultation meeting of experts that the Working Group held in May 2015. The Working Group would like to thank the participants in that consultation, and other contributors, for the high quality of their inputs.

II. Existing initiatives to measure the implementation of the Guiding Principles on Business and Human Rights

15. In the present section, the Working Group considers existing initiatives to measure or provide data on the implementation of the Guiding Principles. While some initiatives make explicit reference to measuring or reporting on the Guiding Principles, many have not been designed with that specific purpose in mind and are intended to describe the environments in which companies operate or to track the performance of individual enterprises.

16. Initiatives are arranged under the three pillars of the Guiding Principles (the duty of the State to protect against human rights abuses by business enterprises, the corporate responsibility to respect human rights and the need for greater access by victims to effective remedy (A/HRC/17/31, para. 6)), to enable the Working Group to assess the coverage of and gaps in data spanning across the pillars.

17. The purpose of section II is not to identify comprehensively every measurement initiative or to review the pros and cons of each approach

individually.[3] The initiatives collected here represent a range of methodologies, from measuring, tracking and reporting to ranking and benchmarking. The Working Group argues that all those efforts provide information and approaches that may be helpful in measuring the implementation of the Guiding Principles.

A. Measuring pillar 1: duty of the State to protect against human rights abuses by business enterprises

18. The Working Group has identified four types of initiatives that aim to measure State performance on managing the environments in which businesses operate.

1. Questionnaires for and surveys of States

19. Since the endorsement of the Guiding Principles in 2011, a number of initiatives have been taken specifically to seek to measure their implementation by States. Data gathered rely to a large extent on Governments' responses to questionnaires or surveys.

20. The surveys of States that the Working Group carried out in 2012, 2013 and 2014 have helped to paint a picture of the overall commitments and steps taken to implement the Guiding Principles in the States that responded.[4] Earlier in 2015, the Working Group sent a survey questionnaire to States on their roles and responsibilities as economic actors, including with regard to business enterprises owned, operated or managed by the State. It hopes that a large number of States will respond to that more specific questionnaire, thereby allowing the Working Group to identify progress in implementation. Similarly, the Government Action Platform,[5] managed by the Business and Human Rights Resource Centre, contains the results of a survey of the implementation by Governments of pillars 1 and 3 of the Guiding Principles.

21. In the field of labour rights, the International Labour Organization (ILO) has been conducting since 1985 surveys on the state of policy and practice with respect to various subject areas relating to its instruments, such as wages and occupational safety and health.[6]

2. State-driven measurement initiatives

22. States have also started measuring their implementation of the Guiding Principles. National action plans on business and human rights are perhaps the most well-known, and most promising, of those efforts. In calling for the adoption of such national action plans, the Working Group emphasized that Governments should adopt an evidence-based approach, gathering data and identifying where laws should be updated to align with the Guiding Principles (A/69/263, para 20). One initiative towards systematizing that process, the National Baseline Assessment

[3] See for an example of such mapping the Measuring business and human rights project, available from http://business-humanrights.org/en/measuring-business-human-rights-0 (accessed 25 July 2015).

[4] www.ohchr.org/EN/Issues/Business/Pages/ImplementationGP.aspx.

[5] http://business-humanrights.org/en/government-action-platform.

[6] www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/general-surveys/lang--en/index.htm.

Template,[7] developed by the Danish Institute for Human Rights and the International Corporate Accountability Roundtable, provides a detailed framework for carrying out that task. At the time of reporting, more than 25 national action plan processes were under way, in all regions of the world and in countries of all economic levels.[2]

3. State data on human rights implementation

23. States must report to treaty bodies on the implementation of the international human rights treaties that they have ratified.[8] States' reports to treaty bodies and concluding observations by those bodies are likely to include data relevant to the regulatory framework in place and to key human rights issues in the country, including those linked to business-related harm.[9] In addition, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has developed a methodology for human rights indicators to help States to develop their own indicators and gather data on human rights, and help treaty bodies to ask questions to States as part of the reporting process on treaty implementation. Some of the indicators developed are relevant to business enterprises, such as those on the rights to work, social security, health, fair trial, water and sanitation.[10]

4. State performance indices

24. Institutions and civil society organizations measure performance in a given State or compare performance across States in a wide range of areas, of which many relate to the rule of law and governance, including industry-specific governance.[11] Others relate to health and safety,[12] the environment[13] or business context.[14] In the field of human rights, the CIRI Human Rights database and the Political Terror Scale rate countries on the basis of a wide range of human rights practices, while the Global Rights Index of the International Trade Union Confederation rates countries on the basis of the level of labour rights protection.[15] New methodologies, such as the Index of Social and Economic Rights Fulfilment, attempt to measure the

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[7] Danish Institute for Human Rights and International Corporate Accountability Roundtable, *National Action Plans on Business and Human Rights: Toolkit Component 1: The National Baseline Assessment (NBA) Template*.

[8] www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx.

[9] Available information will depend on the status of ratification of treaties and reporting by the State party.

[10] Available from www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx. That framework is applied by national Governments, national human rights institutions and non-governmental organizations worldwide.

[11] See, for example, http://info.worldbank.org/governance/wgi/index.aspx#home, http://worldjusticeproject.org/rule-of-law-index, www.transparency.org/cpi2014 and www.resourcegovernance.org/rgi.

[12] For example the Health and Safety Risk Index, available from www.maplecroft.com/about/news/global_health_hot_spots_jan_10.html (accessed 2 July 2015).

[13] See, for example, the Environmental Performance Index, available from http://epi.yale.edu/epi, and the new Environmental Democracy Index, available from www.wri.org/our-work/project/access-initiative-tai/commissions#project-tabs.

[14] www.doingbusiness.org/rankings.

[15] www.humanrightsdata.com, www.politicalterrorscale.org and www.ituc-csi.org/ituc-global-rights-index ıames.

performance of countries on the fulfilment of economic and social rights obligations.[16]

25. While the data produced by those initiatives do not always directly relate to the State's duty to protect against human rights abuses by business enterprises, they provide information on the context in which businesses operate, the structures that may encourage or prevent business abuses, and the space available to civil society and potentially affected groups and individuals to raise human rights concerns.

B. Measuring pillar 2: corporate responsibility to respect human rights

26. Tracking, assessing and reporting on the impacts of business, both from within companies and outside of them, is well established, and a number of approaches have been developed that may contribute to measuring the extent to which companies are assuming their responsibility to respect human rights.

1. Surveys of business enterprises

27. Since the endorsement of the Guiding Principles, a number of initiatives have used surveys to measure the level of awareness of, commitment to and implementation of the Guiding Principles among companies.

28. The Working Group conducted surveys of businesses in 2012 and 2013, in partnership with the Global Business Initiative on Human Rights, the International Organization of Employers, and the International Chamber of Commerce (A/HRC/26/25/Add.1). In 2014, the Economist Intelligence Unit conducted a global online survey, reflecting the views of 853 senior corporate executives.[17] Other notable examples include the annual surveys by the Global Compact Initiative on the implementation of its principles by signatories to the Compact, including human rights,[18] and a survey from the World Business Council for Sustainable Development.[19]

2. Company management tools

29. Companies apply a range of methodologies to track their performance and impacts, including social impacts. Some use external tools, while others carry out their own internal assessments or supplier audits. Many efforts are focused on improving the management of supply chains, particularly in the areas of labour, health and safety, and sustainability.[20]

30. Recent years have seen a consolidation in those approaches, with companies increasingly collaborating to manage their supply chains and devise unified

[16] www.serfindex.org.

[17] Available from www.economistinsights.com/business-strategy/analysis/road-principles-practice.

[18] See United Nations Global Compact, *Global Corporate Sustainability Report 2013*, available from www.unglobalcompact.org/docs/about_the_gc/Global_Corporate_Sustainability_Report2013.pdf.

[19] World Business Council for Sustainable Development, Scaling up Action on Human Rights: Operationalizing the UN Guiding Principles for Business and Human Rights.

[20] See, for example, United Nations Global Compact, *Global Corporate Sustainability Report 2013*, p. 10, available from www.unglobalcompact.org/docs/about_the_gc/Global_Corporate_Sustainability_Report2013.pdf.

standards for inspections. The Global Social Compliance Programme, for example, aims to harmonize responsible supply chain efforts across dozens of multinational brands.[21]

31. A number of initiatives support companies in comparing their policies and practices against international human rights norms, including the Human Rights Compliance Assessment of the Danish Institute of Human Rights.[22] An increasing number of companies have included human rights in their policies to regulate their own operations and those of their supply chains. Others are working directly with suppliers to build their capacity and develop metrics to measure and improve their social performance.[23] The Working Group hopes that companies will increasingly measure and track respect for human rights across their own operations and those of their suppliers.[24]

3. Corporate reporting and assurance

32. In addition to tracking their own performance, many companies produce public reports summarizing their efforts and results, increasingly within a framework of sustainability reporting. In recent years, a growing number of enterprises have begun to report their impacts publicly with tools and frameworks that explicitly include the Guiding Principles. The most commonly used framework is the Sustainability Reporting Guidelines of the Global Reporting Initiative, currently used by 6,000 companies. The Initiative harmonized its reporting guidelines in 2012 (the fourth generation guidelines, or "G4") to include reporting on elements that are relevant to the Guiding Principles. Earlier in 2015, the Human Rights Reporting and Assurance Framework Initiative[25] launched the UN Guiding Principles Reporting Framework, which provide comprehensive guidance to companies in reporting on all aspects of corporate responsibility to respect human rights.

33. The interest in and requirements relating to public human rights reporting are expanding. A number of States and international institutions have strengthened their legal requirements for companies to report publicly on their operations and impacts.[26] In addition, United Nations initiatives relating to corporate reporting

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[21] www.gscpnet.com/.

[22] The Human Rights Compliance Assessment was recently released in an open platform to encourage wider multi-stakeholder discussion on indicators for business, and is available from http://business-humanrights.org/en/platform-for-human-rights-indicators-for-business-hrib. See also www.globalcompactselfassessment.org.

[23] See Shift, *From Audit to Innovation: Advancing Human Rights in Global Supply Chains* (New York, 2013), available from http://shiftproject.org/sites/default/files/From%20Audit%20to%20Innovation-Advancing%20Human%20Rights%20in%20Global%20Supply%20Chains_0.pdf.

[24] See, for example, Unilever's first *Human Rights Report* on its Responsible Sourcing Policy implementation and tracking (www.unilever.com).

[25] www.shiftproject.org/project/human-rights-reporting-and-assurance-frameworks-initiative-rafi.

[26] Those requirements include conflict minerals reporting under the Dodd-Frank Wall Street Reform and Consumer Protection Act of the United States of America, the corporate social responsibility reporting requirements of the European Commission and the California Transparency in Supply Chains Act of 2010.

include human rights-related impacts, namely the Global Compact Initiative and the Women's Empowerment Principles.[27]

34. Investors are also increasingly supportive of companies reporting on impacts on human rights. In that respect, the Working Group is pleased to note the public support by a large group of investors (as of July 2015, 82 investors representing $4.8 trillion of assets under management) to the UN Guiding Principles Reporting Framework. In their statement to welcome the Framework, those investors noted that they saw it as an essential tool that enabled investors to review companies' understanding and management of human rights risks.[28] Companies have also begun to think more broadly about impacts and some have developed environmental profit and loss accounts in which they record their environmental impacts in dollars.[29] A few are now experimenting with similar models to measure social profit and loss.[30]

35. The Working Group strongly encourages the trend towards reporting actual impacts, including those on human rights, and the development of related indicators. The recently launched UN Guiding Principles Reporting Framework and its cross-referencing to the Global Reporting Initiative's important work in developing human rights-related indicators have made a vital contribution to defining the elements of comprehensive human rights reporting. Uncertainty and debate continue, however, regarding how that reporting should be verified. The Human Rights Reporting and Assurance Framework Initiative is working towards the development of practical guidance for assurance practitioners on human rights reporting in line with the Guiding Principles.

4. Investor initiatives

36. Investors are also interested in the social performance of companies and, as indicated in the previous section, some explicitly support reporting on impacts on human rights.

37. Environmental, social and governance investors control funds dedicated to companies that have committed to managing their social and environmental footprint. Notable examples are the Dow Jones Sustainability Indices and the FTSE4Good Index Series. Those indices collect huge amounts of data on thousands of companies.

38. Many environmental, social and governance initiatives, however, include just one or two indicators relating to human rights and measure the social aspect only through awareness or commitment expressed in policies or public statements by companies.[31] As such, those indices are limited in their ability to identify the human rights performance of businesses in practice. Nonetheless, those efforts and other

[27] www.weprincip'es.org.

[28] See www.ungpreporting.org/early-adopters/investor-statement/#sthash.O4aWfw1Y.dpuf.

[29] See, for example, http://about.puma.com/en/sustainability/environment/environmental-profit-and-loss-account or www.kering.com/en/sustainability/whatisepl.

[30] See, for example, World Business Council for Sustainable Development, *Towards a Social Capital Protocol: A Call for Collaboration* (2015), available from http://www.wbcsd.org/Pages/eNews/eNewsDetails.aspx?ID=16508&NoSearchContextKey=true, and http://trueprice.org.

[31] See, for example, the Corporate Sustainability Assessment by RobecoSAM, the results of which serve as the basis for the Dow Jones Sustainability Indices of 2015, available from www.robecosam.com. However, relevant indicators are framed under stakeholder engagement and labour practices.

forms of socially responsible investment share many of the same objectives as the Guiding Principles. The growing interest from investors in consolidating environmental, social and governance data[32] and including human rights criteria shows the potential of that field to encourage better human rights reporting and performance. That potential can be achieved only if investors are encouraged to introduce more robust human rights measurement.

5. Ranking and rating by external organizations

39. Beyond the efforts that companies make to track and report their own performance, a number of external initiatives also track and rank company performance on social and, increasingly, human rights criteria. Oxfam's Behind the Brands,[33] for example, ranks the policies of the largest food and beverage companies with respect to seven human rights-related themes, such as rights and access to land and the sustainable use of it and women's rights. The Access to Medicine Index,[34] which is aligned with human rights standards, particularly the right to health, ranks pharmaceutical companies' efforts to improve access to medicine in developing countries. Other recent examples include Ranking Digital Rights[35] and the Corporate Human Rights Benchmark, which aims to create a publicly accessible ranking of global companies' human rights approach and performance based on the Guiding Principles and other sector-specific guidance.[36]

6. Assessment and reporting by affected individuals and groups

40. Alongside those quantitative initiatives, a number of civil society networks, such as the International Network for Economic, Social and Cultural Rights and the International Federation for Human Rights, and non-governmental organizations, such as Oxfam, assist communities, workers and whistle-blowers in assessing and reporting human rights abuses by companies.[37] Community-based human rights impact assessments allow affected communities to drive the process of information gathering and participation, framed by their own understanding of how their rights are affected by businesses.

41. Those efforts will be critical in any attempt to systematically monitor the implementation of the Guiding Principles by businesses. They provide an important complement to businesses' own tracking efforts, particularly on the elements of due diligence and consultation, and may serve to highlight failings in State protection against human rights abuses by business enterprises. Because they focus on communities and human right defenders, those methodologies may also be useful

[32] See, for example, www.world-exchanges.org/insight/reports/wfe-launches-sustainability-working-group.

[33] www.behindthebrands.org/.

[34] www.accesstomedicineindex.org/.

[35] https://rankingdigitalrights.org.

[36] http://business-humanrights.org/en/corporate-human-rights-benchmark.

[37] See in particular the Getting it Right tool originally developed by Rights and Democracy and used by Oxfam and the International Federation for Human Rights, available from http://hria.equalit.ie/en/. See also http://policy-practice.oxfamamerica.org/work/private-sector-engagement/community-based-human-rights-impact-assessment-initiative, www.fidh.org/article7502 and the International Network for Economic, Social and Cultural Rights checklist, available from http://business-humanrights.org/en/checklist-documenting-corporate-human-rights-impacts.

when thinking about incorporating participatory indicators in broader measurement methodologies.

C. Measuring pillar 3: access to remedy

42. A number of organizations have attempted to measure the strength and independence of judicial remedies. More recently, attempts have been made to capture the effectiveness of non-judicial remedies.

1. Judicial remedies

43. As in pillar 1, a number of global databases and rankings on the rule of law, the independence of the judiciary and perceptions of corruption give a broad indication as to the likelihood of obtaining redress through courts in a given country (see sect. II. A). Data on effective remedy are usually available at the national level from administrative data, court records, national human rights institutions and other quasi-judicial and informal mechanisms.

44. At the international level, reports from States and concluding observations by human rights treaty bodies may also offer relevant information, as does the database of individual complaints received by the same treaty bodies.[38] Similarly, the communications reports of special procedures mandate holders contain information on business-related harm.[39]

45. Specifically relevant to pillar 3, the OHCHR Accountability and Remedy Project has identified a series of legal and practical barriers for victims to access judicial remedy.[40] The growing flow of information on those barriers and recommendations for removing them may contribute to a framework for measuring State remedy mechanisms. Indicators on access to judicial remedies for business-related harm could also build on indicators already developed by OHCHR in relation to access to legal aid, due process of law and the role of quasi-judicial (e.g. national human rights institutions) and non-judicial (executive or administrative) actors.[41]

2. Non-judicial remedies

46. The UN Guiding Principles Reporting Framework prompts companies to report on the processes and outcomes of their non-judicial remedy mechanisms. Initiatives more directly relevant to pillars 1 and 2, such as the Working Group's surveys of States, also contain indicators and data that may be relevant to measuring the extent to which pillar 3 is being implemented.

47. Another way to measure access to remedy is by considering individual non-judicial grievance mechanisms with global application. The national contact points of the Organization for Economic Cooperation and Development (OECD), for example, allow complaints to be lodged against multinational enterprises headquartered in OECD countries. Unfortunately, there is no single database of all complaints lodged with national contact points, and the three existing databases do

[38] http://juris.ohchr.org.

[39] www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

[40] www.ohchr.org/EN/Issues/Business/Pages/OHCHRstudyondomesticlawremedies.aspx.

[41] www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx.

not offer a comprehensive picture of complaints. Two recent studies have nonetheless attempted to assess the overall picture of the effectiveness of national contact points.[42] Similarly, complaints made to and handled by the International Finance Corporation Compliance Advisor Ombudsman can be tracked,[43] and the International Labour Organization (ILO) maintains a database on cases related to freedom of association cases.[44]

3. Tracking human rights claims

48. For individual cases, a number of databases also exist. The Company and Government Action Platforms,[45] managed by the Business and Human Rights Resource Centre, offer information on both judicial and non-judicial grievance mechanisms. Based to a large extent on information available on the Centre's website, the Corporations and Human Rights Database project[46] has tracked over 1,400 cases of human rights abuses by business enterprises between 2000 and 2014, looking at the remedy avenues pursued and the outcomes achieved. A number of civil society organizations, including the International Federation for Human Rights, have collated cases and provided guidance for companies and States for redressing harms.[47]

III. Gaps in existing initiatives and considerations for future measuring initiatives

49. The previous section described the efforts currently under way to measure State and company implementation of the Guiding Principles. In the present section, the Working Group flag gaps and essential lessons that should bear upon new initiatives to measure the uptake and implementation of the Guiding Principles.

A. Gaps in data coverage: measuring what matters

50. Available information and existing measurement initiatives have significant gaps. First, with respect to the coverage of the Guiding Principles, most measurement initiatives are geared towards pillar 2, followed by pillar 1.

[42] John G. Ruggie and Tamaryn Nelson, "Human rights and the OECD guidelines for multinational enterprises: Normative innovations and implementation challenges", *Corporate Social Responsibility Initiative*, Working Paper No. 66. Cambridge, MA: John F. Kennedy School of Government, Harvard University (2015); and OECD Watch, "Remedy remains rare: An analysis of 15 years of NCP cases and their contribution to improve access to remedy for victims of corporate misconduct" (2015).

[43] www.cao-ombudsman.org/cases/.

[44] www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0::NO.

[45] http://business-humanrights.org/en/getting-started-0/government-action-platform/company-action-platform and http://business-humanrights.org/en/government-action-platform.

[46] www.chrdproject.com.

[47] www.fidh.org/International-Federation-for-Human-Rights/globalisation-human-rights/business-and-human-rights/Updated-version-Corporate-8258. See also Gwynne Skinner, Robert McCorquodale and Olivier De Schutter, "The third pillar: Access to judicial remedies for human rights violations by transnational business" (December 2013), available from www.corporatejustice.org/IMG/pdf/the_third_pillar_-access_to_judicial_remedies_for_human_rights_violation.-1-2.pdf.

Information regarding the implementation of pillar 3 is relatively scarce. This is noteworthy in its oddness. While it is difficult, if not impossible, to measure how much harm has been prevented by States or companies' actions, it should be comparatively easier to measure how harm has been remedied when it occurred. Arguably, pillar 3 has a much more finite and measurable data set than pillars 1 and 2, and yet specific data on pillar 3 are unavailable. Moreover, the generic data relating to State-based remedies are not collated in a way that makes them accessible and enables the identification of business-related abuses.

51. Second, with regard to content, labour issues, health and safety and environmental impacts are each covered by a number of initiatives for both States and companies. Impacts on human rights are treated in a more generic fashion and, with the exception of rights in the workplace and discrimination relating to those, specific human rights such as land-related rights or freedom of expression are not adequately or comprehensively addressed. Likewise, most States and companies initiatives pay less attention to impacts on affected communities (such as indigenous and minority communities) and on human rights defenders.[48] In addition, most available information concerns large, multinational companies, with little data and guidance available on small- and medium-size enterprises.

52. Third, a lot of initiatives relate to human rights commitments by companies or States, and to some extent about processes, but fewer to the actual impacts on the prevention or redress of human rights abuses. That point is explored further below.

53. To some extent, that state of affairs reflects the areas where practices are strongest, as measurement efforts cover well-established issues on which information is available. The collective effect of those efforts, however, may de-prioritize themes or challenges that are more difficult to measure. The Working Group stresses that what must be measured is what is meaningful to know, not what is easiest to measure or suits existing measurement tools and resources.

54. Measuring what is truly meaningful is not an easy task. Not all parts of the Guiding Principles lend themselves to easy translation into clear, straightforward indicators. Businesses may have an adverse impact on every human right, in any country in the world. Any attempt to distil those impacts into unified approaches will, by definition, collapse some of their nuance and complexity.

55. Furthermore, the process of measurement is not value-neutral. Deciding what and how to measure necessarily puts focus and value on some areas while skipping others. Care must be taken to base such choices on international human rights principles, placing human beings at the centre of the measurement tools.

56. That problem is not particular to the Guiding Principles or to the field of business and human rights. For instance, the process of devising indicators for the Millennium Development Goals, and the overreliance on existing socioeconomic

[48] See, for example, key findings from the Action Platforms, available from http://business-humanrights.org/sites/default/files/Action_Platform_Final.pdf.

data, highlighted choices that fell short of human rights standards in many ways.[49] Commentators have noted the distorting effects of the choice of indicators for the Millennium Development Goals.[50]

57. A similar distortion was apparent in the World Bank's ease of doing business index. An earlier version included indicators that gave countries higher scores for limiting worker protections.[51] While some might argue that restricting mass retrenchments or promoting labour unions might handicap businesses in the short term, in the view of the Working Group this inhibits sustainable, long-term, business operations, not to mention that it contradicts human rights law. The methodology has now aligned with ILO conventions, and the Doing Business 2015 report no longer presents rankings of economies on the labour regulation indicators.[52]

B. Need for an inclusive and legitimate process

58. Because measurement is about choices, a process to develop measuring tools, tracking systems and indicators for the Guiding Principles should be owned by a large alliance of stakeholders, taking into account views across regions, sectors and actors (from home and host Governments, State-owned companies and listed and private companies to civil society organizations and communities), thereby ensuring the legitimacy of the process. A number of the initiatives mentioned in section II were built around a multi-stakeholder, consensus-seeking process to ensure the legitimacy of their outcomes.

59. While recognizing that the development of measurement tools and indicators must include specialized expertise to ensure technical rigour, the Working Group emphasizes that such a process should also strive to include individuals and communities (potentially or actually) harmed by business operations, as well as organizations representing their interests. If the process of developing measurement tools is limited to a small number of experts or institutions, it runs the risk of replicating existing power relationships in which potential victims remain voiceless and powerless.

[49] See, for example, the controversial exclusion of security of tenure from indicator 7.10 (proportion of the urban population living in slums) relating to target 7.D of achieving, by 2020, a significant improvement in the lives of at least 100 million slum dwellers. While that particular target has already been reached, the question remains as to whether that result reflects the real situation of slums and informal settlements worldwide (A/HRC/22/46, para. 10). See also OHCHR, Official Statistics and Human Rights, available from www.ohchr.org/Documents/Issues/MDGs/Post2015/HRAndStatistics.pdf.

[50] Sakiko Fukuda-Parr, Alicia Ely Yamin and Joshua Greenstein, "The power of numbers: A critical review of Millennium Development Goal targets for human development and human rights", Journal of Human Development and Capabilities: A Multi-Disciplinary Journal for People-Centred Development, 17 April 2014.

[51] See criticism of the index in International Trade Union Confederation, *ITUC Global Rights Index: The World's Worst Countries for Workers, 2014*, p. 9.

[52] www.doingbusiness.org/methodology/labor-market-regulation.

C. Measuring commitments versus impacts

60. Measuring the implementation of the Guiding Principles effectively means gathering data at three levels, namely commitment, processes, and outcome or impact, as described below:

(a) Commitments refer to policies that aim to prevent human rights abuses by companies. With respect to States, that includes legal instruments, laws, regulations and institutional mechanisms to promote and protect human rights. For instance, does the State have an explicit statement or policy committing to the Guiding Principles or to its duty to protect against corporate harm? In the case of businesses, that means company policies that state the company's respect for human rights or commitment to the Guiding Principles, such as a code of conduct that prohibits child labour in the company's operations and suppliers;

(b) Processes refer to efforts taken to embed the Guiding Principles in the structure and systems of the State or company, for example providing an adequate budget to the judiciary to investigate complaints or training employees;

(c) Outcome or impact refers to the effectiveness of those processes and systems in preventing business-related abuses. For example, what is the incidence of occupational accidents in a given country or industry? Or how many cases of child labour were found in the previous year?

61. Such categorization reflects the general categorization of information on States' performance with respect to human rights, namely that of structures and commitments, processes and outcomes.[53] The Guiding Principles readily accommodate that categorization. With respect to companies, the Working Group suggests it is best to express "outcomes" in terms of "impacts" to reflect the language of the Guiding Principles.[54]

62. All three of those forms of data are crucial to measuring the implementation of the Guiding Principles. That said, while existing initiatives reveal, relatively speaking, quite a bit about commitment, and some about processes, they say little about outcomes and impacts. It is not clear whether any of the commitments and processes on which data are available has improved company practices or has decreased the number of human rights abuses by business enterprises. Existing efforts have understandably focused on the commitment and process elements, given that the greater availability of data thereon makes them easier to quantify. Nevertheless, in order to truly measure the implementation of Guiding Principles, one must ensure that the impact element, especially for individuals and groups affected by business-related harm, is not lost.

63. Thus, there needs to be more nuanced methodologies and data gathering to track actual outcomes and impacts. In that regard, an effective company grievance

[53] See OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (New York and Geneva, 2012), pp. 33-37, available from http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf.

[54] For the purposes of the present report, the Working Group uses those terms, with the caveat that each of those categories is fluid, that another terminology may in future better express the distinction between those terms, and that those terms may in turn be made more specific to serve the needs of a specific measuring tool and its end users (for example, some methodologies make the difference between measuring outputs and outcomes for companies).

mechanism through which those directly affected may raise concerns about how they are or may be harmed could be, for example, a good indicator of potential and recurring human rights impact.[55]

D. Tracking human rights claims

64. Capturing widespread, systematic information on human rights abuses by business enterprises is a difficult task. Most of the information that reaches the international community regarding such abuses comes from cases reported in the media or grievances filed in domestic or international remedy mechanisms. Care must be taken to recognize selection biases in both reporting claims and in drawing inferences from them.

65. It is well known that victims are less likely to report claims in repressive contexts. Therefore, a falling number of complaints each year, to State or company remedy mechanisms, may not indicate that a State is improving its performance in protecting against business-related abuses, but rather that it is simply becoming more repressive. The same goes for company remedy mechanisms. This general point also applies to media reports. If a company has not been singled out for a journalistic investigation, that does not necessarily mean it is better than its peers at performing due diligence. There might be several, context-specific reasons behind the media covering some types of claims or companies more than others.

66. Thus, inference should be made with caution, and account for regional characteristics or temporal trends that may be associated with patterns in claim-making. Even with such limitations, a database that provides information on what types of claims are made, when they are made and when they are addressed (through remedy) is necessary to understand whether policies and processes laid down in pillars 1 and 2 are effective. Data collection efforts should work to triangulate between third-party (non-governmental organization and private company) reports, other non-judicial grievance mechanisms, such as the national contact points of the Organization for Economic Cooperation and Development, and local news sources.

E. Balancing qualitative and quantitative approaches

67. The initiatives described in section II demonstrate different approaches to measuring company and State practice in preventing human rights abuses by the private sector. One approach, which is the one taken by ranking indices and investors, is primarily quantitative. The other approach, seen in the pillar-3 initiatives and assessments by affected communities, is more qualitative. It is important to use both types of information and not to let one approach overshadow the other.

68. The Guiding Principles explicitly mention those two approaches when discussing companies' tracking systems. Principle 20 provides that tracking should: (a) be based on appropriate qualitative and quantitative indicators; and (b) draw on feedback from both internal and external sources, including affected stakeholders.

[55] See OHCHR, *The corporate responsibility to respect human rights: An Interpretive Guide* (New York and Geneva, 2012), p. 34, available from http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf.

The Interpretive Guide to the Corporate Responsibility to Respect Human Rights contains the following note:

> There can be advantages to quantitative indicators, given the precision they offer and the ease with which they can be integrated into, or correlated with, indicators used in other areas of the business. However, since respect for human rights is about the dignity of people, qualitative indicators — that include, as far as possible, the perspectives of affected stakeholder groups — will always be important. In some situations, qualitative indicators will be important for the accurate interpretation of quantitative ones: for instance, assessing whether a reduction in reports of worker safety breaches reflects an actual reduction in such incidents, a lack of faith in the reporting system, or intimidation that prevents reporting.[56]

69. Recent initiatives, such as the UN Guiding Principles Reporting Framework, leave space for qualitative assessment, while others, such as the National Baseline Assessment Template, focus essentially on qualitative indicators. Others still prioritize data stemming from organizations monitoring corporate impacts and perspectives from affected individuals and communities.[57] In that regard, initiatives to assess corporate impacts from the perspective of the affected communities are relevant.[58] It must also be stressed that it is particularly important that potential victims participate in measurement exercises on the effectiveness of grievance mechanisms, to ensure the legitimacy of the mechanism itself.[59]

IV. Measuring the implementation of the Guiding Principles on Business and Human Rights: towards convergence

70. The present report has highlighted the ongoing challenge of measuring the implementation of the Guiding Principles by States and companies. To conclude, the Working Group would like to highlight three strategic areas where it believes that further attention will result in exponential improvements in the measurement of the implementation of the Guiding Principles and, ultimately, the prevention of human rights abuses by business enterprises.

A. Measuring State implementation through national action plans on business and human rights

71. National action plans on business and human rights provide a useful avenue for measuring State implementation of the Guiding Principles. The National Baseline Assessment Template, in which States assess their current level of implementation of the Guiding Principles, is a critical tool for adapting indicators to

[56] Ibid., p. 54, question 51.

[57] See, for example, the Corporations and Human Rights Database, available from http://chrdproject.com/index.html.

[58] See, for example, http://policy-practice.oxfamamerica.org/work/private-sector-engagement/community-based-human-rights-impact-assessment-initiative.

[59] See, for example, Caroline Rees, *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned* (CSR Initiative, Harvard Kennedy School, Cambridge, 2011), available from http://www.hks.harvard.edu/m-rcbg/CSRI/publications/report_46_GM_pilots.pdf.

specific contexts and tracking performance over time. The Working Group intends to revisit its guidance on national action plans with the issue of measurement in mind.

72. The first national action plans did not include baseline assessments or comprehensive sets of benchmarks or indicators.[60] At the time of reporting, however, a number of national action plan processes were under way that placed a stronger emphasis on measurement and benchmarking, including in Chile, Germany, Scotland (United Kingdom of Great Britain and Northern Ireland), South Africa and Zambia, amongst others.[61] The Working Group commends that good practice but also acknowledges that, in low-resource and low-capacity contexts, initial comprehensive baselines may not be realistic. In such contexts, a focus on known, salient issues as a starting point may be a better strategy.

73. In the view of the Working Group, national action plans are a means, not an end. National action plans can be viewed as a continuous process of improvement for States. For national action plans processes to be effective, they must be regularly reviewed and updated, with inbuilt monitoring mechanisms. In addition, the process by which they are carried out, that is one that includes comprehensive mapping of State duties and extensive stakeholder consultation, is just as important as the final product. The Working Group encourages States to view national action plans as a tool for continuous improvement and to carry them out with inclusion and comprehensiveness in mind.

B. Continuing the translation of the Guiding Principles on Business and Human Rights into measurable elements

74. As stressed by the former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, the endorsement of the Guiding Principles marked the end of the beginning by establishing a common global platform for action, on which cumulative progress can be built, step-by-step (A/HRC/17/31, para. 13). The Working Group believes that it is essential in the field of business and human rights and, more broadly, for the international community to work towards convergence on how to measure the implementation of the Guiding Principles. While the Working Group does not prescribe the final form of such an initiative, it believes that taking concrete actions towards consensus is of the utmost importance.

75. As shown in the present report, work to identify measurable elements of the Guiding Principles is already under way, particularly on pillar 2, as evidenced by tools and guidance such as the Human Rights Compliance Assessment of the Danish Institute for Human Rights and the UN Guiding Principles Reporting Framework (see sect. II. B). The Corporate Human Rights Benchmark project is also likely to offer further guidance when it is finalized.

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[60] International Corporate Accountability Roundtable and European Coalition for Corporate Justice (ECCJ), *Assessments of Existing National Action Plans (NAPs) on Business and Human Rights* (November 2014), available from http://icar.ngo/wp-content/uploads/2014/10/ICAR-ECCJ-Assessments-of-Existing-NAPs.pdf.

[61] http://business-humanrights.org/en/un-guiding-principles/implementation-tools-examples/implementation-by-governments/by-type-of-initiative/national-action-plans.

76. Some work has also been undertaken to measure the implementation of pillar 1, in particular the efforts to produce guidance on national action plans, such as those by the Danish Institute for Human Rights and the International Corporate Accountability Roundtable (the structure of the National Baseline Assessment Template mirrors that of the Guiding Principles), and by the Working Group (annex III to its *Guidance on National Actions Plans on Business and Human Rights* provides a list of potential elements for informing development of pillar-1 and -3 indicators) and surveys of States.[62]

77. The need for interpreting the Guiding Principles into measurable elements reflects common approaches in other fields. The OHCHR human rights indicator framework discussed in the present report, for example, identifies attributes of human rights and breaks them into indicators. As an illustration, the right to work (article 23 of the Universal Declaration of Human Rights) is broken down into the following attributes: access to decent and productive work; just and safe working conditions; training, skill upgrading and professional development; and protection from forced labour and unemployment.[63] Indicators include the incidence of occupational accidents and the ratio of women's to men's wages. The Working Group does not advocate that the exact same approach should be taken in the field of business and human rights or that it should end with exactly the same output as the OHCHR human rights indicator framework, but it does argue that such work is both vital and achievable.

78. The Working Group supports initiatives that extend measurement frameworks to new data sources, purposes and constituencies. Initiatives to translate the Guiding Principles into indicators for investors or industry sectors, for example, will significantly contribute to uptake and dissemination. Given the lack of initiatives specific to pillar 3, the Working Group also welcomes earnest attempts to measure the effectiveness of company and State remedy efforts. There is also a need to look across industries and regions to track how specific human rights challenges, such as forced labour or land-related rights, are being addressed.

79. The Working Group also sees the need at the global level. Success in implementing the Guiding Principles requires international coordination and collaboration to assess the outcome of the successful implementation of the Guiding Principles and how such implementation is measured. While it is acknowledged that those efforts will always be context-specific, one must determine at least the parameters for that information. At present, what is lacking is not only global measurement systems for the Guiding Principles, but even the criteria for establishing them. Such a process is worth exploring.

80. Any such attempt requires a coordinated effort, and the Working Group reiterates its call that the determination of what and how to measure must be made with the participation of actors across stakeholder, geographical and political divides. One initiative worth flagging in that respect follows up on a suggestion made at the third Forum on Business and Human Rights, held in December 2014 and chaired by Mo Ibrahim, Founder and Chairman of the Mo Ibrahim Foundation,

[62] See also Damiano de Felice and Andreas Graf, "The Potential of National Action Plans to Implement Human Rights Norms: An Early Assessment with Respect to the UN Guiding Principles on Business and Human Rights" (2015), available from http://jhrp.oxfordjournals.org/content/7/1/40.

[63] See OHCHR, *Human Rights Indicators*, p. 95.

to initiate a process to measure the implementation of the Guiding Principles in each State across the globe, with indicators relating to the three pillars.

C. Embedding the Guiding Principles on Business and Human Rights in existing measurement frameworks

81. Section II of the present report lists a number of measurement initiatives that do not specifically focus on the Guiding Principles and yet are highly relevant to the issue of State and company performance on human rights. Many of those initiatives could strengthen their inclusion of Guiding Principles-related criteria.

82. The first category of initiatives in which Guiding Principles indicators could be embedded is environmental, social and governance investment. Investors have particular leverage over the companies in which they invest. Currently, most environmental, social and governance measurement frameworks rely on self-reporting by companies and only measure commitment. A number of investor initiatives already integrate human rights under the "social" pillar of environmental, social and governance evaluation but, as many actors have pointed out, those methodologies do not always capture meaningful human rights data.

83. Second, many international human rights treaties have implications with respect to regulating and adjudicating corporate harm, many of which are reflected in the Guiding Principles. Reporting to treaty bodies or under the universal periodic review provides an opportunity for States to report on the implementation of the Guiding Principles and for treaty bodies and other States to monitor those efforts. Business and human rights questions should not be left to the Working Group alone but should be mainstreamed through the entire United Nations human rights machinery. The Working Group has already engaged with a number of treaty bodies and special procedures mandate holders to discuss linkages between the Guiding Principles and other treaties and supports initiatives to integrate the Guiding Principles into treaty bodies and the work of special procedures mandate holders.

84. Third, at the global level, the sustainable development goals provide significant opportunities. As a new global framework, the goals will shape the future development agenda for both States and companies. The goals are already focused on indicators and measuring and are likely to generate data relevant to business and human rights through the work of the official statistics agencies and the implementation of national plans. The private sector is expected to play a key role in the achievement of the goals, and the Working Group welcomes the emphasis placed on their role.[64] However, the private sector's substantial role must be matched with equally substantial accountability. In the view of the Working Group, the Guiding Principles must drive the implementation of the goals, including the setting of concrete targets and indicators.[65]

[64] The Working Group raised those points in a letter to the lead negotiators in July 2015, available from www.ohchr.org/EN/Issues/Business/Pages/2015Activities.aspx. See also A/HRC/29/28.

[65] Efforts are under way to help companies to set goals and measure impact on contributions to the sustainable development goals. See www.sdgcompass.org.

V. Conclusion and recommendations

85. In the present report, the Working Group has argued that measuring the implementation of the Guiding Principles on Business and Human Rights is a task of paramount importance in the field of business and human rights and, more generally, to the international community. That is clearly a priority for the Working Group. Measurement will be a priority theme at the fourth Forum on Business and Human Rights, in November 2015.[66] In addition, the Working Group intends to keep abreast of discussions and developments in that field to highlight the benefits of measurement and work towards convergence.

86. A review of existing measuring and tracking initiatives relating to the Guiding Principles has highlighted the diversity of many of those initiatives and methodologies and their potential to offer relevant data on the Guiding Principles and to measure the implementation thereof. It has also shown gaps in coverage.

87. Many existing initiatives focus overwhelmingly on the commitments of companies and States to implementing the Guiding Principles and, to some extent, on the processes needed to implement them. While commitments and the establishment of processes and systems constitute critical steps towards protecting individuals and communities against human rights abuses by business enterprises, they do not reflect whether those abuses are being reduced in practice. Any meaningful effort to measure the implementation of the Guiding Principles must include the consequences of State and company policies and processes, not only their intention.

88. The Working Group also notes that pillar 3 (access to remedy) of the Guiding Principles lacks measurement initiatives relative to the other two pillars. Research in the field of business and human rights lacks comprehensive data on the number and nature of complaints against companies for their adverse impacts and the effectiveness of the bodies tasked with investigating and remediating those impacts. State and company remedy mechanisms are not only vital bodies in themselves, but also provide information that will inform broader efforts to measure the implementation of the Guiding Principles.

89. The Working Group stresses that what must be measured is what is meaningful to know, not what is easiest to measure. This requires inclusive processes to design measurement initiatives and criteria, as well as an appropriate mix of qualitative and quantitative approaches, taking into account assessments by affected individuals and communities themselves. While some topic areas offer more available data than others, they should not distract from the comprehensive and universal nature of the Guiding Principles.

90. The Working Group concludes its report by making specific recommendations addressing the lessons learned and strategic areas discussed therein. It hopes that those recommendations will provide the needed impetus for a more robust, consolidated and global approach to measuring the implementation of the Guiding Principles.

[66] www.ohchr.org/EN/Issues/Business/Forum/Pages/2015ForumBHR.aspx.

91. **Recommendations to States:**

(a) **States should track their efforts to meet their duty to protect human rights in the context of business activities, including ensuring access to effective remedy. In addition, States should monitor whether businesses are meeting the responsibility to respect human rights in their national contexts;**

(b) **Given that national action plans on business and human rights, including national baseline assessments, provide an important avenue for tracking progress, States are encouraged to develop national action plans that include national baseline assessments, and to use them as part of a continuous process of improvement;**

(c) **States should encourage and give incentives to improved human rights reporting and consider where mandatory reporting could help to advance corporate practices. The UN Guiding Principles Reporting Framework offers an opportunity for convergence around a tool that is based directly on the Guiding Principles;**

(d) **States should ensure that the Guiding Principles are taken into account in the post-2015 development framework and serve as a reference for both global and national efforts to implement the sustainable development goals, including when developing and implementing targets and indicators. In particular, requirements in the post-2015 development framework with regard to sustainability reporting should include robust indicators and data, including on human rights. In doing so, States should increase their own capacity to implement, monitor and enforce any requirements for corporate reporting;**

(e) **States should support present and future efforts to track State progress on the Guiding Principles by making relevant data available. That includes reporting on their commitment to and implementation of the Guiding Principles in their reports to treaty bodies and as part of the universal periodic review. It also applies to the survey questionnaires sent by the Working Group to map progress and practices both generally and with regard to specific policy areas. While mindful of the capacity constraints of many Governments, providing data and information to civil society mapping efforts, such as the Government Action Platform by the Business and Human Rights Resource Centre, would support the goal of measuring overall progress;**

(f) **To strengthen their own efforts to track progress on human rights performance by Governments at the international level, States should systematically ask questions on the implementation of the Guiding Principles in the context of the universal periodic review and call for measuring tools and indicators, including human rights indicators based on the OHCHR framework and relating to businesses, in the context of the implementation of the recommendations stemming from the review.**

92. **Recommendations to business enterprises:**

(a) **Industry associations, business federations and associations are well placed to use their convening power and leverage to initiate the uptake of the Guiding Principles among their members and, in cooperation with relevant stakeholders, to address the measuring and tracking challenges relating to the Guiding Principles;**

(b) As businesses increasingly develop and implement processes to embed their responsibility to respect human rights, they should also develop and implement adequate systems to track their impacts on human rights and the effectiveness of addressing those impacts, with respect to their supply chains as well as their own operations;

(c) Initiatives already tracking performance of companies on environment, social and governance performance offer significant opportunities for increasing business awareness of and action on the corporate responsibility to respect human rights. Such initiatives should align with the Guiding Principles and include indicators based on the key elements of the corporate responsibility to respect human rights;

(d) Actors such as the "big four" auditing firms and other enterprises involved in assuring non-financial reporting of companies should proactively encourage their clients to know and show how they are meeting the responsibility to respect human rights. Efforts to develop guidance for assuring human rights reporting in line with the Guiding Principles should be supported by leading assurance providers and professional bodies to ensure that companies are met with consistent expectations based on agreed international standards;

(e) The International Accounting Standards Board, the national accounting standards boards and the International Integrated Reporting Council, as appropriate, should refine their approaches in the field of triple bottom line accounting and require more sophisticated techniques to meet the requirements set in the Guiding Principles and the expectations of communities, shareholders, consumers and others on responsible business practices.

93. Recommendations to international organizations, civil society and academics:

(a) International and non-governmental organizations and academics engaged in measurement initiatives should increase attention to the development of measurement methodologies focused on human rights claims. It is crucial to gather the best available data on claims of human rights abuses, as it is difficult to know whether policies or processes adopted by States and companies ultimately reduce abuses without a baseline assessment about claims;

(b) Similarly, more attention should be paid to developing methodologies and obtaining data relevant to the implementation of pillar 3 (access to remedy). Obtaining data relevant to the implementation of pillar 3 is not only important in itself, it is also important to understand whether progress can be associated with the measures taken under pillars 1 and 2. Part of the value of the Guiding Principles lies in their comprehensive coverage of corporate impacts. Thus, measuring and tracking must take place across all three pillars to fully comprehend the level of their implementation;

(c) Greater coordination among organizations developing measuring and tracking tools is necessary to work towards greater convergence and standardization around what is to be measured. That applies to all relevant initiatives, including national action plans, reporting, tracking systems on the responsibility to respect human rights and impact assessment methodologies.

94. **Recommendations to national human rights institutions:**

(a) **National human rights institutions should monitor, assess, and compile data on how States in their national contexts meet their duty to protect human rights from business-related harm, and how companies are meeting their responsibility to respect human rights;**

(b) **National human rights institutions should also compile and provide public data on the business-related human rights claims that they receive and address.**

95. **Recommendations to the human rights system of the United Nations:**

(a) **Treaty bodies and special procedures mandate holders should consider asking questions specific to the implementation of the Guiding Principles more systematically, in particular with respect to access to remedy for business-related harm, when monitoring treaty implementation, processing complaints and communications, and engaging with States in the reporting cycle or during country missions;**

(b) **Treaty bodies should also consider including core elements of the Guiding Principles in their reporting guidelines;**

(c) **The Office of the United Nations High Commissioner for Human Rights should support States, treaty bodies and special procedures mandate holders in developing human rights indicators relating specifically to business and the Guiding Principles, applied to various rights and sectors and across the three pillars of the Guiding Principles.**